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ABSTRACT

This state plan documenting Utah's intentions to implement Part B of the Individuals with Disabilities Education Act in fiscal years 1993-95 begins with various submission statements and certifications. It then presents the following policies, procedures, and descriptions: right to education policy statement, full educational opportunities goal, child identification, individualized education programs, procedural safeguards, least restrictive environment, protection in evaluation procedures, comprehensive system of personnel development, participation of private school children, placement in private schools, recovery of funds for misclassified children, Notice and Opportunity for Hearing on LEA application, annual evaluation, responsibility of SEA for education programs, confidentiality, use of federal funds, interagency agreements, and personnel standards. A Utah preschool grant application for federal assistance is appended. It includes required certifications and public participation documentation; a budget chart; and a program narrative on the use of discretionary funds, flow through funds, and administrative funds. (JDD)

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UTAH

STATE PLAN

UNDER PART B OF THE

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

FISCAL YEARS 1993-1995

UTAH STATE OFFICE OF EDUCATION
Special Education Services Unit
250 East 500 South
Salt Lake City, Utah 84111
(801)538-7700

July 1992

Submitted To:

United States Department of Education
Office of Special Education and Rehabilitative Services
Office of Special Education Programs
Washington, D.C. 20202

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FISCAL YEARS 1993-1995

TABLE OF CONTENTS

PART I - SUBMISSION STATEMENTS AND CERTIFICATIONS

Page

A. SUBMISSION STATEMENT ..... (1)

B. ASSURANCE STATEMENTS ..... (2)

C. GENERAL STATE APPLICATION - EDGAR ASSURANCE ..... (3)

D. CERTIFICATIONS REQUIRED BY EDGAR ..... (3)

E. EXECUTIVE ORDER 12372 ..... (3)

F. PUBLIC PARTICIPATION ..... (4)

G. ED FORM 80-0013 ..... (5)

H. FISCAL YEAR 1993 AMENDMENTS ..... (8)

PART II - SUBSTANTIVE REQUIREMENTS
POLICIES, PROCEDURES, AND DESCRIPTIONS ..... (12)

I.	Right to Education Policy Statement	1
II.	Full Educational Opportunities Goal	3
III.	Child Identification	4
IV.	Individualized Education Program	7
V.	Procedural Safeguards	14
VI.	Least Restrictive Environment	23
VII.	Protection in Evaluation Procedures	27
VIII.	Comprehensive System of Personnel Development	30
IX.	Participation of Private School Children	40
X.	Placement in Private Schools	44
XI.	Recovery of Funds for Misclassified Children	46
XII.	Notice and Opportunity for Hearing on LEA Application	47
XIII.	Annual Evaluation	49
XIV.	Responsibility of SEA for Education Programs	51
XV.	Confidentiality	53
XVI.	Direct Services by the SEA	58
XVII.	Policies and Procedures for Use of Part B Funds	59
XVIII.	Description of Use of Part B Funds	61
XIX.	Interagency Agreements	66
XX.	Personnel Standards	69

ATTACHMENTS

A. State Board of Education Special Education Rules A-1

B. Program Monitoring and Technical Assistance Manual. B-1

C. Annual Application for IDEA-B Flow-thru Funds
Technical Assistance and Evaluation Manual. C-1

D. SCRAM Letter and Form. D-1

E. Special Education Evaluation System. E-1

F. Utah Administrative Procedures Act. F-1

G. State Agency Special Education Laws. G-1

H. Part H Interagency Agreements. H-1

I. Utah Learning Resource Center Project I-1

J. Documentation of Public Participation. J-1

K. USOE Request for OSEP Interpretation
Regarding Personnel Standards, and Response K-1

L. Standards for Letters of Authorization L-1

M. Description of Duties, Administrative Personnel Paid from Part B Funds . . . M-1

PART I

SUBMISSION STATEMENT, CERTIFICATIONS, AND ASSURANCES

A. SUBMISSION STATEMENT

I, the undersigned authorized official of the State Education Agency of Utah, hereby submit the following State Plan for Fiscal Years 1993-95 under Part B of the Individuals with Disabilities Education Act.

Scott W Bean — Signature of Authorized Official

4/23/92 — Date

Scott W. Bean, State Superintendent of Public Instruction

B. ASSURANCE STATEMENTS

The State of Utah makes the following assurances and provisions as required by Part B of the Individuals with Disabilities Education Act, as amended (20 U.S.C. 1411-1420):

I. In carrying out the requirements of 20 U.S.C. 1412, procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities (20 U. S. C. 1412(7)(A)).

II. Programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including subpart 2 of part D of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 and section 202(1) of the Carl D. Perkins Vocational Education Act, under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs (20 U. S. C. 1413(a)(2)).

III. Federal funds made available under the Act: (A) will not be commingled with State funds; and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the control of State or local educational agencies) expended for special education and related services provided to children with disabilities and will in no case be used to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate education, the Secretary may waive in part the requirements of this clause if the Secretary concurs with evidence provided by the State (20 U. S. C. 1413(a)(9)(B) and 20 U. S. C. 1414 (a)(B)(ii)).

IV. The State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in, or concerned with, the education of children with disabilities, including disabled individuals, teachers, parents or guardians of children with disabilities, State and local officials, which: (A) advises the State educational agency of unmet needs within the State in the education of children with disabilities; (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities, and the procedures for distribution of funds under the Act; and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under 20 U. S. C. 1418 (20 U. S. C. 1413(a)(12)).

V. The Individuals with Disabilities Education Act, as amended, will not be construed by the State to permit the State to reduce medical or other assistance available under, or to alter the eligibility requirements of, programs funded in whole or in part through Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, with respect to the provision of a free appropriate public education for children with disabilities within the State. This part may not be construed to limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of a free appropriate public education for children with disabilities in the State.

C. GENERAL STATE APPLICATION - EDGAR ASSURANCE

The State educational agency provides assurance that it will comply with the provisions contained in 34 CFR 76.101 and Section 435 of the General Education Provisions Act.

D. CERTIFICATIONS REQUIRED BY EDGAR

In accordance with 34 CFR 76.104 the State educational agency assures:

1. That the plan is submitted by the State agency that is eligible to submit the Plan.

2. That the State agency has authority under State law to perform the functions of the State under the program.

3. That the State legally may carry out each provision of the Plan.

4. That all provisions of the Plan are consistent with State law.

5. That a State Officer, specified by title in the certification, has authority under State law to receive, hold, and disburse Federal funds made available under the Plan.

6. That the State Officer who submits this Plan, specified by title in the certification, has authority to submit the Plan.

7. That the agency that submits the Plan has adopted or otherwise formally approved the Plan.

8. That the Plan is the basis for State operation and administration of the program.

E. EXECUTIVE ORDER 12372

This State certifies that:

To the best of our knowledge and belief, data in this State Plan are true and correct, the document has been duly authorized by the governing body of the State education agency and the State will comply with the attached assurances if the State Plan is approved.

The State Plan was submitted to the State's "single point of contact" under Executive Order 12372 on date: April 27, 1992.

F. PUBLIC PARTICIPATION (34 CFR 300.380-300.284 AND 34 CFR 76.101 OF THE EDGAR)

In meeting the general application requirements under Section 435 of the General Education Provisions Act, 20 U.S.C. §1231d, the State has provided reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by the program and other interested institutions, organizations, and individuals in the planning for the operation of the program, including:

1. Consulting with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of the program plan required by Part B of the IDEA;

2. Publishing the proposed Plan, in a manner that will ensure circulation throughout the State at least sixty days prior to the date on which the Plan becomes effective, whichever is earlier, with an opportunity for public comments on the Plan to be accepted for at least thirty days;

3. Holding public hearings on the proposed Plan; and

4. Providing an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with Part B of IDEA statute and regulations.

Copies of the State Plan were mailed to the following groups requesting written comment on the Plan:

Utah Association for Retarded Citizens (UARC)
Legal Center for Persons with Disabilities (LCPD)
Utah Association for Children and Adults with Learning Disabilities (LDAU)
Utah Parent Center

The Plan was also submitted to the State Advisory Panel on Special Education (USBEACH) for comment.

On Friday, April 24, 1992, notice of the public hearings to be conducted on the Plan was published in five newspapers, statewide. Public hearings were conducted in Salt Lake City and Provo, Utah. The dates established for the hearings were enough in advance and at times and places to afford interested parties throughout the State a reasonable opportunity to participate. The notice was in sufficient detail to inform the general public about:

1. The purpose and scope of the program plan and its relation to Part B,
2. The availability of the program plan,
3. The date, time and location of each public hearing,
4. The procedures for submitting written comments about the plan, and
5. The timetable for developing the final plan and submitting it to the U.S. Secretary for approval.

The Plan was available for comment for a period of at least thirty (30) days following the date of the notice, Friday, April 24, 1992.

Before adopting the State Plan, special education staff reviewed and considered all public comments and where necessary, made modifications in the Plan.

Information regarding the implementation of this requirement can be found in Attachment J, "Documentation of Public Participation."

After the U.S. Secretary of Education approves the program plan, the State shall give notice in the newspapers that the Plan is approved. The notice shall name places throughout the State where the Plan is available for access by any interested person.

G. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying, and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal approved funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal grant or cooperative agreement,

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL "Disclosure Form to Report Lobbying" in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110-

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employees assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employees in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Services U.S. Department of Education 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah 84111
and the 40 school districts of the State (certification on file)
Utah Schools for the Deaf and the Blind, 846 - 20th Street, Ogden, Utah 84401

Check _____ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As require by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession , or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Utah State Office of Education	IDEA-B
NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME

Scott W. Bean, State Superintendent of Public Instruction
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Scott W Bean	4/23/92
SIGNATURE	DATE

ED 80-0013

H. NEW STATE PLAN REQUIREMENTS UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS ADDED BY THE EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990 (PUB.L.101-476) AND THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1991 (PUB.L.102-119)

Assurances Regarding Implementation of these Requirements During Fiscal Year 1993

For purposes of implementing provisions of the Education of the Handicapped Act Amendments of 1990 (Pub. L. 101-476) and the Individuals with Disabilities Education Act Amendments of 1991 (Pub. L. 102-119), which amend Part B of the Individuals with Disabilities Education Act (Act) (20 U. S. C. 1401, 1411-1420), the State of Utah makes the following assurances:

(1) In accordance with section 612(2) of the Act, throughout the period of the Fiscal Year (FY) 1993 grant award, the State's definition of "children with disabilities," or its equivalent, will include "children with autism" and "children with traumatic brain injury" as separate

disability categories under Part B, as specified in section 602(a) (1) of the Act. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(2) In accordance with section 612(2) of the Act, throughout the period of the FY 1993 grant award, the State's definition of "children with disabilities, or its equivalent, for children aged three through five will include "children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures...," in accordance with the criteria specified in section 602(a) (1) (B) of the Act.

(3) In accordance with section 612(2) of the Act, throughout the period of the FY 1993 grant award, the State's definition of "special education," or its equivalent, will add "instruction in other settings" to the list of settings in which "specially designed instruction" may be provided to children with disabilities, as required by section 602(a) (16) of the Act. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(4) In accordance with section 612(2) of the Act, throughout the period of the FY 1993 grant award, the State's definition of "related services," or its equivalent, will include "rehabilitation counseling" and "social work services" as eligible related services, as required by section 602(a) (17) of the Act. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(5) In accordance with section 612(4) of the Act, throughout the period of the FY 1993 grant award, each public agency in the State will implement individualized education programs (IEPs) for students with disabilities, as provided in section 614 (a) (5) of the Act, which IEPs include the following provisions, as required by section 602 (a) (19) and (a) (20) of the Act:

> (A) A statement of needed transition services for students with disabilities beginning at age 16 and each year thereafter, and to the extent appropriate, for students with disabilities 14 years of age or younger;
>
> (B) Where appropriate, a statement of interagency responsibility if a State or local agency, other than the public agency responsible for the student's education, is responsible for providing or paying for needed transition services;
>
> (C) Where a participating agency, other than the public agency responsible for the student's education, has failed to provide agreed upon transition services, a statement that the public agency will reconvene a meeting of the participants on the IEP team to identify alternative strategies to meet the transition objectives in the student's IEP; and
>
> (D) That with respect to IEPs of students with disabilities, "transition services" has the same meaning as the term "transition services," as defined in section 602 (a) (19) of the Act.

As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(6) In accordance with section 613 (a) (3) of the Act, through the period of the FY 1993 grant award, the State will implement a comprehensive system of personnel development (CSPD), consistent with the purposes of the Act and with the CSPD described in section 676 (b) (8) of Part H of the Act, that shall include -

(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including -

(i) the development and maintenance of a system for determining, on an annual basis -

(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including -

(I) the numbers of students enrolled in such programs, and

(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

(iii) the development, updating, and implementation of a plan that -

(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

(II) coordinate and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, including -

(i) a system for the continuing education of regular and special education and related services personnel;

(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(iii) procedures for adopting, where applicable, promising practices, materials, and technology.

As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(7) In accordance with section 613 (a) (15) of the Act, throughout the period of the grant award, the State will have in effect policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under Part H of the Act who will participate in preschool programs assisted under Part B of the Act, including a method of ensuring that when a child turns age three, an individualized education program, or, if consistent with sections 614 (a) (5) and 677 (d), an individualized family service plan, has been developed and is being implemented by such child's third birthday. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(8) In accordance with section 612 (4) of the Act, throughout the period of the FY 1993 grant award, for each child with a disability aged three through five, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, each local educational agency or intermediate educational unit in the State, by the beginning of each school year, will establish an individualized education program for each child with a disability or an individualized family service plan described in section 677 (d), and will then review and, if appropriate, revise its provisions periodically, but not less than annually. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(9) Throughout the period of the FY 1993 grant award, the State will comply with all requirements of Part B of the Act, including any Departmental regulations amending 34 CFR Part 300 that became final and effective by the date on which your State received its FY 1993 grant award.

Scott W. Bean, State Superintendent of Public Instruction

Scott W Bean
Signature

4/23/93
Date

PART II

SUBSTANTIVE REQUIREMENTS

POLICIES, PROCEDURES, AND DESCRIPTIONS

The FY 1993-95 State Plan must be a complete, intact document which includes all of the provisions listed below, including the State's policies and procedures. Policies and procedures should include details of how requirements will be implemented.

1. Right to Education Policy Statement (20 U. S. C. 1412 (1); 1412 (2) (B); and 1412 (6); 34 CFR 300.121-300.122)

2. Full Educational Opportunities Goal (20 U. S. C. 1412 (2) (A); 20 U. S. C. 1418 (b) (6); 34 CFR 300.123-300.126)[1]

3. Child Identification (20 U. S. C. 1412 (2) (C); 34 CFR 300.128)

4. Individualized Education Program (20 U. S. C. 1412 (4); 34 CFR 300.130)

5. Procedural Safeguards (20 U. S. C. 1412 (5) (A); 34 CFR 300.131 and 300.136)

6. Least Restrictive Environment (20 U. S. C. 1412 (5) (B); 34 CFR 300.132)[2]

7. Protection in Evaluation Procedures (20 U. S. C. 1412 (5) (C); 34 CFR 300.133)

8. Comprehensive System of Personnel Development (20 U. S. C. 1413 (a) (3); 34 CFR 300.139)[3]

9. Participation of Private School Children (20 U. S. C. 1413 (a) (4) (A); 34 CFR 300.140; 34 CFR 76.650-76.662)

10. Placement in Private Schools (20 U. S. C. 1413 (a) (4) (A); 34 CFR 300.140)

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1 Data requirements for 34 CFR 300.124-300.126 are met through the submission of the State Plan, the Annual Data Report, and the Annual Performance Report.

2 Data requirements for 34 CFR 300.132 are met through the submission of the Annual Data Report.

3 It is not necessary to include in the State Plan tabular data on personnel employed and personnel needed. These data are now submitted in the Annual Data Report.

11. Recovery of Funds for Misclassified Children (20 U. S. C. 1413 (a) (5); 34 CFR 300.141)

12. Notice and Opportunity for Hearing on LEA Application (20 U. S. C. 1413 (a) (B); 34 CFR 300.144)

13. Annual Evaluation (20 U. S. C. 1413 (a) (11); 34 CFR 300.146)

14. Responsibility of SEA for Education Programs (20 U. S. C. 1412 (6); 34 CFR 300.134)

15. Confidentiality (20 U. S. C. 1412 (2) (D); 1417 (c); 34 CFR 300.129)

16. Additional Information if the State Educational Agency Provides Direct Services (20 U. S. C. 1413 (b); 34 CFR 300.151)

17. Policies and Procedures for Use of Part B Funds (20 U. S. C. 1413 (a) (1), 34 CFR 300.148)

18. Description of Use of Part B Funds (20 U. S. C. 1232c (b) (1) (B) (ii), 34 CFR 300.149)

19. Interagency Agreements (20 U. S. C. 1413 (a) (13); 34 CFR 300.152)

20. Personnel Standards (20 U. S. C. 1413 (a) (14); 34 CFR 300.153)

I. RIGHT TO EDUCATION POLICY STATEMENT 612(1)

Section 612(1) of the Individuals with Disabilities Education Act (IDEA-B), as amended, states that in order to qualify for assistance under Part B the State must have "in effect a policy that assures all children with disabilities the right to a free appropriate public education."

I. A. In the State of Utah, all eligible students with disabilities whose parents or guardians reside within the State have available a free appropriate public education as provided for in State statute and implementing regulations. Section 53A-15-301 through 53A-15-305 of the Utah Code Annotated and State Board of Education Special Education Rules serve as the basis for programs for students with disabilities. Utah's right to education policy is addressed in the following excerpts from the code:

> 53A-15-301. (1) All students with disabilities, who are between the ages of 3 and 22 and have not graduated from high school, are entitled to a free, appropriate public education. The State Board of Education shall adopt rules consistent with applicable state and federal law to implement this chapter.
>
> (3) The State Board shall have general control and supervision over all educational programs for students within the State who have disabilities. Those programs must comply with rules adopted by the State Board under this section.

A complete copy of the State's special education law can be found in Attachment A, Appendix E of this plan.

The implementing regulations for the above statutory provisions (Attachment A, page 1) further specifies the applicability of State Board of Education Special Education Rules by stating that, "These Rules are applicable to all public agencies within the State of Utah providing education and related services for students with disabilities. (Section 53-A-15-301, Utah Code Annotated) This includes private agencies serving students with disabilities with public funds."

In addition, these same Rules (Attachment A, Section III.H) define "children with disabilities" which meet Federal requirements and include the following disabling conditions: communication disorders, orthopedic impairments, specific learning disabilities, intellectual disabilities, multi-disabilities, dual sensory impairments, autism, other health impairments, hearing impairments, deaf, visual impairments, behavior disorders, traumatic brain injuries, and developmental delays.

I. B. The procedures the State Education Agency has undertaken to insure the implementation of its right to education policy statement include:

1. The development of a comprehensive program administrative review process which provides for the on-site review of all public and private agencies serving children with disabilities in the State (Attachments A and B).

2. The establishment of a complaint resolution system for the investigation of noncompliance with the provisions of IDEA-B (Attachment A).

3. The enactment of legislation which gives the State Board of Education the responsibility for the education of school-aged students with disabilities in other state agencies (Attachment G).

4. The development of fiscal auditing procedures consistent with federal single audit requirements which include verification of compliance with state and federal eligibility criteria (Attachment A).

5. The establishment of a Coordinating Council for People with Disabilities (CCPD), mandated by U.C.A. 62A-5a-103, for the purpose of cooperatively developing a single coordinated education and treatment program for students with disabilities (Attachment A).

6. The development of a statewide system for special education program funding including procedures for applying for IDEA-B flow-thru funds (Attachments C and D).

7. The establishment of formal technical assistance regions, within the State, for the primary purpose of assuring continued compliance with state and federal law (Attachment A).

In addition to the procedures noted above, Section XIII, Annual Evaluation, provides supporting documentation on the State's implementation of its right to education policy statement.

II. FULL EDUCATIONAL OPPORTUNITIES GOAL 612(2)(A)

Section 612(2)(A) of IDEA-B, as amended, requires that each state plan shall set forth in detail the policies and procedures which the State has undertaken in order to assure that "there is established a goal of providing full educational opportunity to all children with disabilities."

II. A. The Utah State Board of Education reaffirms that it has a goal of providing full educational opportunities to all students with disabilities, birth through twenty-one by 1993.

II. B. The procedures used by the State Office of Education which insure its Full Educational Opportunities Goal (FEOG) include:

1. The implementation of an annual application for IDEA-B flow-thru funds which includes the provision for a FEOG (Attachment C). A local school district must certify that it has a FEOG consistent with the Utah State Plan for IDEA-B in order to be eligible for Federal funds.

2. The development of a comprehensive statewide monitoring system which provides for the review of public agency policy on a FEOG including supporting documentation (Attachment B).

3. The development of the planning component for the State's early intervention plan for infants and toddlers with special needs, by the Division of Family Health Services, Department of Health, which includes interagency agreements with the State Office of Education (Attachment H).

In addition to the procedures noted above, Section III. Child Identification provides further documentation supporting the State's implementation of this requirement.

III. CHILD IDENTIFICATION 612(2)(C)

III. A. Responsibility for statewide coordination of child find activities resides in the Utah State Office of Education. All local education agencies and state agencies serving students with disabilities are responsible directly, for the location, evaluation and identification of all students with disabilities residing in their geographic jurisdiction, birth through twenty-one, regardless of the severity of their disability. All service providers are required to determine the number of students with disabilities who are currently receiving special education and related services and the number of students with disabilities not receiving special education (Attachment A).

III. B. The primary responsibility for planning for child identification resides with the State Board of Education. To achieve the desired outcome of identifying by name, location and disabling condition, each person with disabilities in Utah, it was necessary to develop a coordinated plan designed to involve all agencies of state government in systematically identifying the disabled population of Utah. Specifically, this requirement has been achieved through the development of a Coordinating Council for People with Disabilities, Utah Advisory Committee for the Developmentally Disabled, and the State Board of Education Advisory Panel on Special Education.

III. C. The implementation of child identification activities is multidimensional and include primarily the Utah State Office of Education, Division of Family Health Services, Bureau of Children with Special Health Care Needs, Division of Mental Health, Department of Health, and the Utah Advisory Council for the Developmentally Disabled. The State Office of Education will have the major responsibility for determining, through local education agencies, all children of school age (3-21); the major responsibility for child find activities for infants and toddlers (0-2) rests with the Division of Family Health Services, Utah Department of Health (Attachment H).

III. D. Proposed activities to be conducted during the period of this plan (FY 1993-95) include:

1. The State Office of Education (USOE) staff will assist local education agency and state operated programs' (e.g. USDB) participation in and provide local education agencies with the required materials and technical assistance to participate in the registry of persons in Utah with disabilities on an on-going basis. This central registry is known as the Utah Registry for Persons with Disabilities.

2. USOE personnel will receive, review and approve by September of each year, projects designed to implement Child Find activities including diagnostic services.

3. USOE staff will participate upon request with the State Health Department, Bureau of Children with Special Health Care Needs teams, in assessing referred, high risk children. Education programming as well as medical needs will be addressed and developed for each referred, high risk child assessed. When a school age child is assessed the Health Department will notify the local school district of the results.

4. USOE Special Education Technical Assistance staff members assigned to a specific district will cooperate with personnel from that local education agency in contacting parents and/or guardians of any child with disabilities reported by a local education

agency as not receiving any educational services to inform them of available services. All parents and/or guardians of known persons with disabilities will be informed of educational and training services available.

5. The Bureau of Children with Special Health Care Needs (CSHCN) will conduct a statewide, county-by-county screening and assessment activity for referred children during the year. Screening and assessment services will be available for children referred by any person or agency in the State. This activity will help identify persons with disabilities in need of special services. When a school age child is identified, CSHCN will notify the local school district of the results.

6. School and County Health nurses will conduct vision and hearing screening activities annually in selected grades as determined by the LEA. Those students identified with possible vision and/or hearing problems will be referred for in-depth assessment. LEA personnel in the Communication Disorders departments (Speech/Hearing/ Language) will also screen for hearing problems.

7. The Divisions of Family Health Services and Mental Health and the Department of Health, in cooperation with the Developmental Disabilities Council, will register eligible persons with disabilities in a statewide computerized system for tracking services needed and provided on an ongoing basis. Each participating agency receives a report on a monthly basis of needed services and data required for planning programs in their jurisdiction.

8. USOE Special Education Technical Assistance staff members will assess the status and success of local education agency Child Find activities within each district, monitor the location, identification, and evaluation of children with disabilities, and, where necessary, assist local education agencies in upgrading their Child Find systems.

III. E. Each of the "proposed" activities described above are in fact major components of the State's ongoing Child Find System. These activities are included in the State's current Plan (FY 1992) and will continue through this Plan cycle (FY 1993-95).

The resources necessary to carry out these activities include:

1. Part B and Part H monies under IDEA;

2. State monies allocated to agencies of State government; and

3. MCH, Medicaid, and Third Party Billings.

The expected outcomes are those noted above. Students with disabilities will be identified, located, and evaluated on a statewide systematic basis. These students will be tracked through the system, and where appropriate, referred for services.

III. F. In addition to those activities described above, for determining which children are and are not receiving special education and related services, the State Offfice of Education has developed:

1. A Self Contained Resource Accounting Method (SCRAM) which includes entry/exit dates, locations, and service pattern/times for students with disabilities (Attachment D).

2. State Board of Education Special Education Rules which address child find policy, pre-referral procedures, and eligibility criteria for children with disabilities (Attachment A).

3. An LEA application process for IDEA-B flow-thru funds which includes provisions for child find (Attachment C).

4. A comprehensive statewide monitoring process for the review of public agency policy and procedures on child find, prereferral, and eligibility criteria (Attachment B).

IV. INDIVIDUALIZED EDUCATION PROGRAM 612(4)

Section 612(4) of the IDEA, as amended, states that in order to qualify for assistance under Part B, the State Plan shall set forth in detail the policies and procedures which the State has undertaken in order to assure that "each local education agency in the State will maintain records of the individualized education program for each child with disabilities, and such program shall be established, reviewed, and revised as provided in Section 614(a)(5)".

Section 614(a)(5) states that a local education agency or an intermediate education unit must submit an application for funds to the State Education Agency. The application shall "provide assurances that the local education agency or intermediate education unit will establish, or revise, whichever is appropriate, an individualized education program for each child with disabilities at the beginning of each school year and will then review and, if appropriate, revise its provisions periodically but not less than annually."

IV. A. The State Board of Education has established policies and procedures for the implementation of the IEP requirements through the development of State Special Education Rules. These Rules include provisions for maintaining records of the IEPs for each child with disabilities and review procedures in accordance with 300.340-300.349 as interpreted at 34 CFR Part 300, Appendix C. These Rules are applicable to all public agencies by virtue of the State Board of Education's general supervisory authority to make policy and set standards granted under State statute (Attachment A).

The procedures for the development and implementation of IEPs for students placed or referred to a private school or facility by a public agency and those enrolled in a private school and receiving special education or related services from a public agency, can be found in Section X, Placement in Private Schools and Section IX, Participation of Private School Children, of this Plan.

IV. B. Specific policies and procedures established by the State Board of Education for the implementation of the IEP requirements include:

1. IEPs are in effect at the beginning of each school year.

2. IEPs are in effect before special education and related services are provided to a student.

3. IEPs are implemented as soon as possible following the IEP meetings.

4. Each public agency is responsible for initiating and conducting meetings to develop, review, and revise a student's IEP.

5. Meetings are held within 30 calendar days of determination that a student needs special education and related services.

6. A meeting to review and/or revise each IEP is held at least once each year.

7. If a participating agency, other than the public agency responsible for the student's education, fails to provide agreed upon transition services contained in the

individualized education program of a student with a disability, the public agency responsible for the student's education shall reconvene a meeting of all of the participants on the individualized education program team to identify alternative strategies to be implemented to meet the transition objectives that were included in that student's individualized education program.

8. Participants in each IEP meeting include:

   a. A representative of the LEA, other than the student's teacher(s) who is qualified to provide, or supervise the provision of special education. The LEA representative (administrator or designee) must be authorized to commit public agency resources to the provision of special education services. Signature of the LEA representative binds the school district to the provision of services, as described in the IEP.

   b. The student's teacher(s).

      In general, the teacher at the IEP meeting should be the student's special education teacher. At the option of the agency or the parent, the student's regular education teacher(s) may attend. It is the responsibility of the special education teacher to collaborate with those regular education teachers whose educational services to the student are related to the goals and objectives outlined in the IEP.

   c. One or both of the student's parents.

   d. The student, where appropriate.

   e. Other individuals, at the discretion of the parent or agency.

   f. For a student with disabilities <u>initial</u> IEP, the public agency shall insure:

      (1) That a member of the evaluation team participates in the meeting; or

      (2) That the LEA representative, the student's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation. Either the teacher or the agency representative must be knowledgeable in the area of the student's suspected disability.

   g. Representatives of other public or private agencies currently or potentially involved with providing services to the student.

   h. For students with disabilities aged 16 years and older, and for students below age 16 whose need for transition services is being considered, the public agency shall ensure that any meeting to develop, review, or revise the students individualized education program includes:

      (1) A representative of the public agency responsible for providing or supervising the provision of transition services; and

(2) If appropriate, a representative of each other participating agency providing the transition services included in the student's individualized education program.

9. Each agency shall take steps to insure that one or both of the parents of the student with disabilities are present at each IEP meeting, or are afforded the opportunity to participate, including: (a) notifying parents of the meeting early enough to insure that they will have an opportunity to attend; (b) scheduling the meeting at a mutually agreed upon time and place; and, (c) including in the notice to parents the purpose, time, and location of the IEP meeting, who will be in attendance, and that they may bring other people to the meeting.

10. If neither parent can attend, the agency shall use other methods to insure parent participation, including individual or conference telephone calls.

11. An IEP meeting may be conducted without a parent in attendance if the agency is unable to convince the parents that they should attend. In this case the agency must have written documentation of at least three contacts to arrange a mutually agreed upon time and place, such as:

    a. Records and dates of completed telephone calls to parents, and the results of those calls;

    b. Copies of dated correspondence sent to the parents, and any responses received; and

    c. Records and dates of visits made to the parent's home or place of employment, and the results of those visits.

12. The agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

13. The public agency shall give the parent, on request, a copy of the individualized education program, without charge.

14. The IEP for each student must include:

    a. Demographic information

    b. The following dates:

        (1) The date the IEP document is completed

        (2) Entry date to program (date for initiation of services)

        (3) Projected ending date of the IEP (can be no more than one year from the date of the completion of the IEP)

c. A statement of the student's present levels of educational performance, based on formal and/or informal measures.

d. A statement of annual goals.

e. A statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, if determined appropriate for an individual student, beginning at age 14, or younger), including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting.

f. Measurable short term objectives to be used in implementing each annual goal.

g. Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

h. A statement of the specific special education and related services to be provided to the student and the extent (amount of time) to which the student will be able to participate in regular education programs.

i. The signatures and titles of all participants at the meeting, and the date each one signed. The lack of a parental signature on the IEP may not be used to deny services to the student.

NOTE: The State Office of Education, the State Department of Social Services, the Department of Health, and the affected school district shall cooperatively develop a single, coordinated education and treatment program for each student with a disability who requires special services from both the public schools and the department(s).

15. In interpreting the IEP Requirements, Appendix C of the Part B Regulations provides both legally binding interpretations and non-binding suggestions. The legally binding requirements in the interpretation are identified by such mandatory language as "must", "the IEP would have to be revised", or "labels may not be used". The non-binding suggestions and guidance are settled in such non-mandatory language as "the agency should" or "it is expected that."

Listed below are Federal interpretations specific to the content of the IEP, including specific references to physical education:

a. The statement of present levels of educational performance will be different for each student with disabilities. Thus, determinations about the content of the statement for an individual student are matters that are left to the discretion of participants in the IEP meetings. However, the statement should accurately describe the effect of the student's disability on the student's performance in any area of education that is affected, including (1) academic areas (reading, math, communication, etc.), and (2) non-academic areas (daily life activities, mobility, etc.). Labels such as "mentally retarded" or "deaf" may not be used as a substitute for the description of present levels of educational performance.

b. The annual goals in the IEP are statements which describe what a student with disabilities can reasonably be expected to accomplish within a twelve month period in the student's special education program. There should be a direct relationship between the annual goals and the present levels of educational performance.

c. Short term instructional objectives (also called "IEP objectives") are measurable, intermediate steps between a student with disabilities present levels of educational performance and the annual goals that are established for the student. The objectives are developed based on a logical breakdown of the major components of the annual goals, and can serve as milestones for measuring progress toward meeting the goals. (Where there is only one short term objective per annual goal, the short term objective does not comprise a sequential breakdown of the annual goal.)

d. The amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to parents and other IEP team members. The amount of time to be committed to each of the various services to be provided must be (1) appropriate to that specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

e. A student with disabilities IEP must indicate the extent to which the child will be educated in the regular educational program. One way of meeting this requirement is to indicate the percent of time the student will be spending in the regular education program with non-disabled students. Another way is to list the specific regular education classes the student will be attending.

f. The evaluation procedures and schedules need not be included as a separate item in the IEP, but they must be presented in a recognizable form and be clearly linked to the short term objectives.

g. Physical education services, specially designed if necessary, must be made available to every student with disabilities receiving a free appropriate public education. The following paragraphs (1) set out some of the different PE program arrangements for students with disabilities and (2) indicate whether, and to what extent, PE must be described or referred to in an IEP.

(1) Regular PE with non-disabled students. If a student with disabilities can participate fully in the regular PE program without any special modifications to compensate for the student's disability, it would not be necessary to describe or refer to PE in the IEP. On the other hand, if some modifications to the regular PE program are necessary for the student to be able to participate in that program, those modifications must be described in the IEP.

(2) Specially designed PE. If a student with disabilities needs a specially designed PE program, that program must be addressed in all applicable

areas of the IEP (e.g., present levels of educational performance, goals objectives, and services to be provided). However, these statements would not have to be presented in any more detail than the other special education services included in the student's IEP.

(3) PE in separate facilities. If a student with disabilities is educated in a separate facility, the PE program for that student must be described or referred to in the IEP. However, the kind and amount of information to be included in the IEP would depend on the physical-motor needs of the student and the type of PE program that is to be provided.

Thus, if a student is in a separate facility that has a standard PE program (e.g., a residential school for the deaf), and if it is determined--on the basis of the student's most recent evaluation--that the student is able to participate in that program without any modifications, then the IEP need only note such participation. On the other hand, if special modificiations to the PE program are needed for the student to participate, those modifications must be described in the IEP. Moreover, if the student needs an individually designed PE program, that program must be addressed under all applicable parts of the IEP. (See paragraph (2) above.)

IV. C. Policies and procedures for implementing the IEP requirements for children referred to or placed in a private school or facility are located in Section X, Placement in Private Schools, of this Plan.

IV. D. Policies and procedures for implementing the IEP requirements for children enrolled in a private school or parochial school that receive special education or related services from a public agency are located in Section IX, Participation of Private School Children, of this Plan.

IV.E. The State Department of Education ensures the implementation of the IEP requirements through its LEA application review/approval process and comprehensive Program Administrative Review (PAR) system.

1. The LEA application for IDEA-B funds requires each local school district to submit policies and procedures implementing the IEP requirements noted in this section of the Plan (Attachment C).

2. The State's PAR process includes the review of a public agencies' policies and procedures for implementing the IEP requirements and a student records review for verification (Attachment B).

The technical assistance manuals and instrumentation developed, by the State, for implementing the above two administrative responsibilities address each of the individual policy areas required by State Board of Education Special Education Rules. In addition, the compliance data generated by each system is cross-referenced and coordinated with the State's technical assistance process.

IV. F. Public Law 94-142, as amended, requires that each pubic agency must provide special education and related services to a student with disabilities in accordance with an individualized education program. However, the individualized education program is not a binding contract, in that Part B of the Act does not require that any agency, teacher, or other person will be held accountable if the student does not achieve the growth projected in the annual goals and objectives. The IEP is a commitment on the part of the local education agency to provide the services listed.

V. PROCEDURAL SAFEGUARDS 612(5)(A)

Section 612(5)(A) of the IDEA, as amended, states that in order to receive assistance under Part B, the State Plan shall set forth in detail the policies and procedures the State has undertaken to assure that it "has established procedural safeguards as required by Section 615" of the act.

V. A. The State Board of Education has established Special Education Rules which ensure that the procedural safeguards requirements under 300.500-514 are met and implemented by each public agency.

V. B. The parents of a student with a disability shall be afforded, in accordance with the procedures in Section XV, Confidentiality, of this Plan, an opportunity to inspect and review all education records with respect to:

1. The identification, evaluation, and educational placement of the student.

2. The provision of a free appropriate public education to the student.

V. C. Each public agency shall establish and implement policies and procedures which meet the requirements of 34 CFR 300.503 for an independent educational evaluation. The following provisions must be addressed:

1. The public agency will maintain information about where an independent educational evaluation may be obtained and provide this information to the parent upon request.

2. Each parent of a student with a disability has a right to obtain an independent educational evaluation of the student, if the parent disagrees with an evaluation obtained by the public agency. The independent evaluation must be conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student.

3. The independent evaluation must be at public expense if the parent disagrees with the evaluation obtained by the public agency. The public agency, however, may initiate a due process hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent maintains the right to an independent educational evaluation but not at a public expense.

4. Where a parent initiated an independent evaluation of a student with a disability at the parent's expense, the results of the evaluation, when provided by the parents to the public agency:

   a. Must be considered by the public agency in decisions made with respect to providing a free and appropriate public education, and

   b. May be presented as evidence at a due process hearing pertaining to that student.

5. When a request for an independent educational evaluation is made by a hearing officer, the evaluation must be at public expense.

6. Whenever an independent evaluation is made at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be consistent with the criteria that the public agency utilizes when it initiates an evaluation, and must meet the minimum standards established by the State Office of Education.

V. D. Each public agency shall establish and implement policies and procedures which meet the requirements of 300.504-300.505, Prior Notice and Parental Consent. The following provision must be addressed.

1. The written notice provided to the parents of a student with disabilities will be made available at a reasonable time before the public agency proposes to change the identification, evaluation or educational placement of the child or to provide a free and appropriate public education or if the public agency refuses to change the evaluation, identification or educational placement or to provide a free and appropriate public education. The notice must include:

   a. A description of the action proposed or refused by the agency, an explanation of why the agency proposed or refused to take action, and a description of any options the agency considered and the reasons why those options were rejected.

   b. A description of each evaluation procedure, test, record or report the agency used as a basis for the proposal or refusal.

   c. A full explanation of the PROCEDURAL SAFEGUARDS, including due process procedures, protection in evaluation procedures, least restrictive environment, independent educational evaluation and confidentiality of information.

   d. A description of any other factors which are used or are relevant to the agency's proposal or refusal.

   e. Language understandable to the general public.

   f. A statement in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

   g. Translation orally or by other means designed for the parent in his or her native language or other mode of communication.

   h. Reasonable assurance that the parent understands the content of the notice.

   i. Written or other documentation that the requirements of this section have been met.

2. Parental consent must be obtained prior to:

   a. Conducting a preplacement evaluation; and

b. Initial placement of the student with disabilities in a program providing special education and related services. Except for preplacement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or child. A student with disabilities who transfers from another state with special education records is considered an initial placement in the new district, requiring written parental consent for placement.

c. Before a student with disabilities is evaluated or initially provided special education and related services, the public agency may use a due process hearing to determine if the student may be evaluated or initially provided special education and related services without parent's consent, subject to the parent's right to appeal the decision.

d. Parents may revoke their consent prior to the time a school district conducts a preplacement evaluation, makes an initial placement, or completes an IEP. If a parent revokes consent, a school district is still obligated to continue its attempts to obtain parental consent. This may include home visits, parent conferences, follow-up correspondence or any other actions deemed appropriate by school personnel. If unsuccessful, the district may use the due process procedures noted in this section.

V. E. Each public agency shall establish and implement policies and procedures which meet the requirements of 300.506-300.513, Due Process Hearings. The following provisions must be addressed:

1. If the parents or guardians of a student with disabilities are aggrieved by a decision or public agency's proposal to initiate or change, or refusal to initiate or change, the identification, evaluation, educational placement or the provision of a free appropriate education, they are guaranteed an impartial due process hearing of their complaint which is to be made in writing to the local school district superintendent. The public educational agency may also initiate a hearing, as may also, a student who is disabled or suspected of being disabled who is the age of majority, and has not been declared incompetent by a Utah Court.

2. The local school district shall be responsible for conducting an impartial due process hearing, including costs associated with the proceedings.

3. The local school district superintendent shall ensure that within 45 calendar days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation conducted pursuant to these Rules, and final decisions rendered, unless a continuance has been granted.

4. Upon receipt of a written request for a hearing, the local school district superintendent shall (1) inform the parent or guardian in writing of any free or low-cost legal services as well as other services relevant to mediation or a due process hearing, including the provisions of the Handicapped Childrn's Protection Act, and the right to waive the mediation conference, and (2) notify the State Director of Special Education of the request for the hearing. The parent shall also be informed of free or low-cost legal services at any other time he/she asks.

5. Within five working days upon receipt from a local school district superintendent of a written request for a hearing pursuant to these Rules, the State Director of Special Education shall appoint an SEA staff member as mediator to conduct a mediation conference, unless either party waives the mediation conference. The purpose of the mediation conference is to attempt to resolve the differences and, if possible, avoid a hearing.

   a. The State Director of Special Education shall appoint an SEA staff member to carry out all mediation activities. If the school district elects to use a mediator other than the appointed SEA staff member, the district shall be responsible for all costs associated with mediation, including payment of the mediator's fees.

   b. The State Director of Special Education shall ensure that mediation is viewed as voluntary and freely agreed to by both parties and is in no way used to deny or delay an aggrieved party's rights to a hearing.

   c. The mediation conference shall be an intervening, informal process conducted in a nonadversarial atmosphere.

   d. The mediation shall be completed within 15 calendar days of receipt by the State Director of Special Education of the request for the hearing.

6. Either party to the mediation conference may request the hearing officer to grant a specific extension of time. Such an extension shall be granted upon a showing of good cause. Any extension shall not extend the 45 calendar day maximum for completion of the due process hearing and rendering of the final administrative decision, unless the hearing officer is agreeable to such an extension.

   a. The mediation resolution shall not conflict with State or Federal law and shall be to the satisfaction of both parties. Satisfaction shall be indicated by the signatures of both parties on the written resolution.

   b. A copy of the written resolution shall be mailed by the mediator to each party within five calendar days following the mediation conference. A copy shall also be filed by the mediator with the State Director of Special Education.

   NOTE: Following the resolution, the USOE will ascertain that the mediation agreement has been fully implemented by the responsible public agency. Should it be determined that the responsible public agency has not implemented the provisions of the agreement, USOE will implement enforcement procedures.

7. If either party refuses to participate in a mediation conference or other proposed mediation steps, or if mediation efforts fail to settle the differences between the parties, the local school district superintendent, jointly with the parents, shall select an independent hearing officer. The public agency shall maintain a list of persons who may serve as hearing officers, including their qualifications, that has been approved by the State Office of Education. The independent hearing officer shall carry out all appropriate activities in conformance with the State Office of Education procedures.

8. If an agreement cannot be reached by both parties on the selection of the independent hearing officer, the matter shall be submitted to the State Superintendent of Public Instruction who shall appoint the hearing officer.

9. An independent hearing officer shall not be assigned from the register to a particular hearing who, with respect to that hearing, has any personal or professional bias or interest which might conflict with his or her objectivity toward either of the parties to the hearing or any of the issues to be decided in the hearing. An employee of the State or local education agency involved in the education or care of the student shall also be excluded from serving as a hearing officer. This exclusion includes school board officials.

10. An individual who otherwise qualifies to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

11. A hearing officer may at any point withdraw from consideration or from service in any hearing in which he or she believes a personal or professional bias or interest of any of the issues to be declared in the hearing exists which might conflict with his or her objectivity.

12. Within a reasonable time the hearing officer shall provide the parent or guardian and the school district written notice of the date, time, and place of the hearing.

13. The hearing officer shall ensure that the hearing is conducted at a time and place reasonably convenient to the parents and student involved.

14. At the discretion of the hearing officer, a pre-hearing conference shall be held in order to: (1) clarify the issue(s) of the hearing, (2) review the hearing rights of both parties, (3) review the procedures for conducting the hearing, and (4) afford both parties the opportunity for disclosure. In no event, will such pre-hearing conference be held later than five calendar days prior to the hearing.

15. Each party shall disclose to the other the full name, title, occupation and place of employment of each witness and a capsule summary of the witnesses' testimony and any other evidence to be presented. These disclosures must be made at least five calendar days prior to the hearing.

16. During a pre-hearing conference conducted pursuant to this section, or in the alternative through the delivery of a written notice, the hearing officer shall ensure that the parents are provided a full explanation of their hearing rights.

17. Any party to a hearing has the right to:

    a. Be accompanied and advised by counsel and by others with special knowledge or training with respect to the problems of students with disabilities.

    b. Present evidence and confront, cross examine and compel the attendance of witnesses.

c. Prohibit the introduction of any evidence at the hearing which has not been disclosed to that party at least five days prior to the hearing.

d. Obtain a written or electronic verbatim record of the hearing.

e. Obtain written findings of fact and decisions.

18. In addition to the rights noted above, parents are assured of their right to have the student who is the subject of the hearing present, and to determine whether the hearing shall be open or closed to the public.

NOTE: The USOE Compliance Officer for Part B shall attend all Due Process Hearings to assure that required procedures are followed.

19. The hearing officer's decision shall be issued in accordance with the following requirements:

a. Such decision will be in writing and shall be sent by certified mail or hand-delivered within 45 calendar days after the request for the hearing to the parents, to the local education agency, to their respective representatives, and to the USOE Compliance Officer who shall transmit the findings and decisions to USBEACH and make them available to the public, after deleting any personally identifiable information.

b. The decision of the hearing officer will include findings of fact, conclusions, and reasons for these findings and conclusions. If the decision is to disapprove a proposed education program, it will include a statement as to what is an adequate and appropriate educational program for the student. If the decision is to approve a proposed educational program, it should include a finding that a less (or more) restrictive program could not adequately and appropriately serve the student's educational needs.

c. The decision of the hearing officer shall be based solely on evidence and testimony presented at the hearing.

d. A verbatim record of the proceedings at the hearing will be made, which shall include any materials or statements specifically requested by any of the parties to appear in the record and shall be made available to the parties to the hearing.

e. The decision of the hearing officer is binding upon the parents and upon the local education agency, its officers, employees and agents, unless a party to the hearing appeals the decision to the Utah State Office of Education (USOE).

f. Following rendering of the decision, the Utah State Office of Education will ascertain that the decision has been fully implemented by the responsible public agency. Should it be determined that the responsible public agency has not implemented these orders, USOE will implement enforcement procedures.

20. When a hearing is conducted by a public agency other than the State Education Agency, any parties aggrieved by the findings and decision of the hearing officer may appeal to the Utah State Office of Education. The appeal and request for an impartial review must be made in writing, within 30 calendar days of the receipt of the hearing officer's decision, to the State Director of Special Education by the party appealing the decision.

21. If there is an appeal, the local school district superintendent, jointly with the parents, shall select a panel of three qualified hearing officers to provide for an impartial review of the hearing which must be completed not later than 30 calendar days after the receipt of the request, unless the panel of hearing officers grants a specific extension of time, upon request of either party. The panel conducting the review shall:

    a. Examine the entire hearing record;

    b. Insure the procedures at the hearing were consistent with the requirements of due process;

    c. Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in parts 17 and 18 above apply;

    d. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing officers; if oral arguments are involved, they shall be conducted at a time and place reasonably convenient to the parent and student;

    e. Make an independent decision on completion of the review;

    f. Provide a copy of written findings and the decision to the parties within 30 calendar days of the request for the review;

    g. The decision made by the reviewing officers is final unless a party brings a civil action; and

    h. Following rendering of the decision, the Utah State Office of Education will ascertain that the decision has been fully implemented by the responsible public agency. Should it be determined that the responsible public agency has not implemented these orders, USOE will implement enforcement procedures.

22. If an agreement cannot be reached by both parties on the selection of the independent hearing panel, the matter shall be submitted to the State Superintendent of Public Instruction who shall appoint the hearing panel.

    NOTE: The panel of hearing officers conducting the review may not include the Chief State School Officer, a member of the State Board of Education, or an employee of the State Educational Agency or any other public agency in the State that is involved in the education or care of the child.

23. Any party aggrieved by the decision of the reviewing officers on appeal has the right to bring a civil action under Section 615 of IDEA. A civil action may be filed in either state or federal court.

24. During the pendency of any administrative hearing or judicial proceeding pursuant to this section, the student involved must remain in the present educational placement unless the school district and the parents agree otherwise.

    a. If the hearing involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school program of the school district until the completion of all the proceedings.

    b. While the placement may not be changed during an administrative or judicial proceeding, unless public agency and parents agree otherwise, this does not preclude the school district from using its normal procedures for dealing with students who are endangering themselves or others.

25. The local school district shall be responsible for paying administrative costs related to a hearing or appeal, including necessary expenses incurred by the hearing officers and any stenographic services in accordance with department policies and procedures. The parties involved shall each be responsible for any legal or other fees that they incur. IDEA-B funds may not be used to pay the costs of the hearings, appeals, or mediation.

26. Pursuant to part 25 above concerning the responsibility for legal costs associated with hearings or appeals, a public agency may be responsible for the reasonable attorney's fees incurred by a parent under the provisions of the Handicapped Children's Protection Act of 1986 if the parent is the prevailing party in an administrative or judicial proceeding.

V. F. Each public agency shall establish and implement policies and procedures which meet the requirements of 300.514, Surrogate Parents. The following provisions must be addressed:

1. In order to provide every eligible student a public education with the protection of procedural due process, even under circumstances where a student's parents or guardians are not known, their whereabouts are unknown, or the student is a ward of the State, such student shall be assigned a parent surrogate. The LEA shall maintain a registry of eligible persons who have completed the State Office of Education surrogate parent training program.

2. Any person, whose work involves education or treatment of children, who knows of a student possibly needing special education services and knows that the parents or guardians are unknown, or their whereabouts are unknown or that the student is a ward of the State, should file a request with the student's LEA for assignment of a surrogate parent to the student.

3. In an effort to determine whether or not the parents or guardians are in fact unknown, their whereabouts are unknown, or the student is a ward of the State, the LEA should send a notice of the need for a surrogate to the adult in charge of the student's place of residence and to the parents or guardians at their last known address.

4. Assignment of a surrogate parent to a particular student shall be made by the LEA or SOP within 15 school days of the student's eligibility determination. Assignments

shall be made from the registry of eligible persons trained to be surrogate parents by the State.

5. Persons selected as surrogate parents should: (1) have no vested interest that would conflict with their primary allegiance to the student they would represent; and (2) to the extent possible, be of the same racial, cultural, linguistic and geographic background of the students they represent.

   a. A surrogate parent will be committed to acquaint him or herself, personally and thoroughly, with the student and the student's educational needs; and be familiar with the State and local educational system.

   b. The surrogate parent will not be an employee of a public agency which is involved with the education or care of the student.

6. A person who otherwise qualifies to be a surrogate parent under this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

7. The surrogate parent may represent the student in all matters relating to the identification, evaluation and educational placement of the student, including the provision of a free appropriate public education.

NOTE: The State Office of Education (USOE) surrogate parent training program noted above is conducted by the Utah Parent Center. Funding for the project is provided by the USOE from the State's 20% set-a-side for support and direct services under IDEA-B. The objectives of the project are: (1) to identify, recruit and select individuals to go through training for surrogate certification, (2) to develop a training program designed to prepare individuals to appropriately advocate on behalf of students with disabilities, (3) to schedule and provide surrogate parent training, (4) to coordinate caseload assignments and act as liaison to local school districts and other state agencies, (5) to provide ongoing support to acting surrogates, and (6) to access, evaluate and plan the future need for additional surrogate parents throughout the State.

V. G. The general procedures the State follows to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for students with disabilities served by these agencies include: (1) utilizes standard forms for prior notice and parental consent, approved by OSEP, and disseminated for statewide use, (2) conducts biannual meetings for local directors of special education and state operated personnel, (3) sponsors an annual law conference, (4) develops technical assistance papers on procedural safeguards, (5) provides on-going technical assistance to all public agencies on procedural safeguards through regional TA meetings, and (6) monitors the effectiveness of the procedures through the State PAR process and complaint management system.

VI. LEAST RESTRICTIVE ENVIRONMENT 612(5)(B)

Section 612(5)(B) of IDEA, as amended, states that in order to qualify for assistance under Part B the State Plan shall set forth in detail the policies and procedures the State has undertaken to assure that it has established "procedures to assure that, to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled, and that special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

VI. A. The State Board of Education Special Education Rules require each public agency to establish and implement procedures which meet the requirements under 300.550-553. The State Office of Education is directly responsible for implementing the procedures required under 300.554-300.556

Public agency procedures must include the following provisions:

1. To the maximum extent appropriate, students with disabilities, including students in public and private institutions or other care facilities, are educated with students who are not disabled.

2. Special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

3. In developing the delivery system for special educational services under the least restrictive environment philosophy, eight alternative program settings shall be considered. These include: (1) home and/or hospital based instruction, (2) residential learning centers, (3) special day schools, (4) self-contained classes in regular schools, or self-contained placement in a resource room, (5) resource rooms, (6) itinerant resource services, (7) consultant services provided in regular classrooms with appropriate supplemental instruction, and (8) other settings.

4. Though it may not be possible for local educational agencies to provide all program types, the local educational agency shall be able to verify that their instructional settings, consultative services, or cooperation with other agencies provide for the appropriate education of each student in the least restrictive environment.

5. Procedures for providing or arranging for non-academic and extracurricular services and activities include:

    a. Non-academic and extracurricular services and activities (including counseling, recreational activities, intramural and interscholastic athletics, transportation, health services, and clubs sponsored by the school system) shall be offered by

school districts in a way that allows equal opportunity to each student with disabilities to participate in services and activities. No qualified person with disabilities shall be denied opportunity to compete for teams.

b. Opportunities to participate in recess periods and meal periods shall be provided by each school district in the most integrated setting appropriate to the students with disabilities enrolled in each school building.

c. Students with disabilities must be provided an equal opportunity for participation in physical education courses and interscholastic, club or intramural athletics sponsored by the school board.

d. Physical education services, specially designed if necessary, shall be made available to every student with disabilities.

e. Each student with disabilities shall be afforded the opportunity to participate in the regular physical education program available to non-disabled students unless;

(1) The student is enrolled full time in a separate facility; or

(2) The student needs specially designed physical education which cannot be provided in the regular physical education program.

f. If specially designed physical education is prescribed in the student's IEP, the school district responsible for the education of the student shall provide the service directly or make arrangements for it to be provided through other public or private programs.

6. Each public agency shall take steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to non-disabled students in the area served by the agency including: art, music, industrial arts, consumer and homemaking education, and vocational education.

NOTE: Arrangements made with private and public institutions by the State to implement the LRE provisions are described in Attachments B, C, and G of this Plan.

Activities carried out to insure that teachers and administrators are informed of their responsibilities for implementing the LRE provisions and are provided technical assistance and training are also described in Attachments B, C, G, and I of this Plan. In addition, the Utah Learning Resource Center Project, funded by the State, contains provisions for technical assistance and training on the LRE Requirements (Attachment I).

VI. B. In placing students with disabilities, the State Office of Education and each public agency shall ensure that:

1. Each student with disabilities educational placement shall be individually determined at least annually and be based on the student's individualized education program, and located as close as possible to the student's home.

2. Provisions are made for appropriate classroom or alternative settings necessary to implement a student's individualized education program.

3. Except where a student with disabilities individualized education program requires some other arrangement, the student shall be educated in the school which that student would normally attend if not disabled.

4. Placement in the least restrictive environment provision will not produce a harmful effect on the student or reduce the quality of services which that student needs.

NOTE: The decision as to the type of placement that is appropriate must not be based on any of the following factors used alone or in combination:

- Category of disabling condition
- Configuration of the service delivery system
- Availability of educational or related services
- Availability of space
- Curriculum content or methods of curriculum delivery

VI. C. The primary methods used by the State Office of Education for ensuring the implementation of the LRE provisions are its LEA application review/approval process for IDEA-B funds, and its comprehensive Program Administrative Review (PAR) system (Attachments B and C).

1. In the submission of an LEA application for Part B funds, each local school district must describe its procedures for implementing the LRE provisions, including types of alternative placements available, and number of students served, by disabling condition, and placement options. Eligibility for IDEA-B funds is contingent upon state approval.

2. The monitoring instrument used in the State's PAR process includes provisions for the on-site review of a public agency's policies and procedures for LRE and a student records review for verification of implementation.

The technical assistance manual and instrumentation used to implement the above two administrative responsibilities not only provide for an analysis on an individual student basis, but include procedures for reviewing the implementation of the LRE provisions from a district-wide standpoint. In addition, individual student placement data generated by the State's SCRAM system is verified through fiscal audits on an annual basis and integrated into the State's comprehensive monitoring system. Finally, the State's Special Education Evaluation System (SEES) includes evaluative criteria for determining the appropriateness of placement decisions as a function of the IEP process.

In addition, if there is evidence that a public agency makes placements that are inconsistent with the LRE requirements, USOE will: (1) review the public agency's justification for its actions, and (2) assist in planning and implementing any necessary corrective actions.

VII. PROTECTION IN EVALUATION PROCEDURES 612(5)(C)

Section 612(5)(C) of the IDEA, as amended, states that in order for a state to qualify for Part B assistance, the state plan shall set forth in detail policies and procedures the State has undertaken to assure that it has established "procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the student's native language or mode of communication, unless it is clearly not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate education program for a student."

VII. A. The State Board of Education Special Education Rules include procedures which assure that the requirements of 300.530-300.534 are established and implemented by each public agency. The specific procedures to be addressed are as follows:

1. The district or agency is responsible for assuring that evaluation materials and procedures are appropriate for students of all racial and ethnic groups being considered for placement in a special education program. Accordingly, where present testing and evaluation materials and procedures have an adverse impact on members of a particular race, persons of a national origin, or sex, additional or substitute materials and procedures which do not have such an adverse impact must be employed when evaluating such students for eligibility for a special education program.

2. Before any action is taken with respect to the initial placement of a student with a disability in a special education program, a full and individual evaluation of the student's educational needs must be conducted in accordance with the evaluation procedures in 300.532.

3. Data collection, including evaluation of the student, must be conducted by a multidisciplinary team including at least one teacher, or other specialist, knowledgeable in the area of the student's suspected disability. (Parents constitute a valuable source of information concerning their child in the evaluation, diagnostic, and eligibility determination process, and should be included whenever possible.)

4. The student is assessed in all areas related to the suspected disability including, where appropriate, health, vision, hearing, social plus emotional status, general intelligence, academic performance, communicative status, and motor abilities.

5. No single procedure or test is to be used as the sole criterion for classification or determining an appropriate educational program for a student.

6. Tests and other evaluation materials are provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

7. Tests and other evaluation materials have been validated for the specific purpose for which they are used.

8. Tests and other evaluation materials must be administered by trained personnel in conformance with the instructions provided by their producer(s).

9. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely a single general IQ.

10. Tests and other evaluation materials must be selected and administered to ensure that results obtained from testing a student with impaired sensory, manual, or speaking skills accurately reflect his/her aptitude or achievement levels, and not the deficit (except where those skills are the factors which the test purports to measure).

VII. B. In interpreting evaluation data and making placement decisions, the State Office of Education requires that each public agency address the following:

1. The multidisciplinary team must utilize information from a variety of sources which may include, but not be limited to, aptitude and achievement tests, teacher recommendation, physical condition, social or cultural background and adaptive behavior. The placement team must, in addition:

2. Ensure that information from all sources noted above is documented and considered in the placement decision.

3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data and the placement options.

4. Ensure that the placement decision is made in conformity with the least restrictive environment.

VII. C. If a determination is made that a student is disabled and needs special education and related services, an IEP must be developed for the student in accordance with the requirement in Section IV, Individualized Education Program, of this Plan. This section also includes the review procedures for IEPs which are in accordance with 300.340-300.349.

VII. D. The public agency shall conduct a formal reevaluation for classification for each identified student with a disability at least every three years from the most recent classification date or more frequently if conditions warrant or, if the student's parent or teacher requests an evaluation.

VII. E. The primary vehicle utilized by the State for assuring the implementation of the protection in evaluation procedures (PEP) is its comprehensive Program Administrative Review (PAR) system.

The monitoring instrument used in the State's PAR process includes:

1. A section on the review of a public agencies' policies and procedures for implementing PEP.

2. A section on the review of student records which addresses, by disabling condition, the criteria, appropriate procedures and tests required by State Rules for the determination of eligibility.

In addition to the above process, the State's fiscal auditing procedures include provisions for the review of student eligibility for services under IDEA-B, (Attachment A), and statewide child find efforts provide for USOE staff participation in interagency evaluation activities, Section III, Child Identification, of this Plan.

VIII. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT 613(a)(3)

In accordance with Section 613(a)(3) of IDEA, as amended, the Utah State Office of Education shall establish and administer procedures for the development, updating, and implementation of a Comprehensive System of Personnel Development (CSPD). The components of the CSPD incorporated in the State Plan must provide for: (a) the continuing education of general and special education instructional and related services personnel; (b) detailed procedures to assure that all personnel necessary to carry out the purposes of the Individuals with Disabilities Education Act (IDEA), are appropriately and adequately prepared and trained; (c) effective procedures for acquiring and disseminating significant information derived from educational and other research, demonstration, and similar projects; and (d) the adoption, where appropriate, of promising educational practices and materials developed through research, demonstration, and similar initiatives.

VIII. A. The State Board of Education Special Education Rules (hereinafter referenced as Utah Special Education Rules), Sections II.F. and VI.B., set forth the scope and content of Utah's Comprehensive System of Personnel Development. As noted in these Rules, the system is designed to ensure that all personnel necessary to carry out the purpose of the Utah Code Annotated (UCA) 53A-15-301 and the provisions of the Individuals with Disabilities Education Act, Part B, (IDEA-B) are appropriately and adequately prepared. Included in Section II.F. of the Utah Special Education Rules are procedures for:

1. The continuing education of regular education, special education, and related services personnel, including leadership personnel;

2. Acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

3. Adopting, where appropriate, promising practices, materials, and technologies, proven effective through demonstration.

VIII. B. The Comprehensive System of Personnel Development has been developed and is administered by the Utah State Office of Education (USOE). Consistent with the requirements of 34 CFR 300.380 of the Federal regulations implementing IDEA-B, Sections II.F. and VI.B. authorize the USOE to administer procedures and activities for the development, updating, and implementation of a statewide plan that:

1. Addresses current and projected special education and related services personnel needs, including the need for leadership personnel; and

2. Coordinates and facilitates efforts among state and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds and personnel with disabilities.

The following narrative addresses the specific requirements of Section 613(a)(3), as implemented by 34 CFR 300.380-300.383, thus defining the scope, content, procedures, and

activities of the State's system for assuring that personnel necessary to carry out the purposes of the IDEA-B and U.C.A. 53-2-21 are appropriately and adequately prepared and trained.

VIII. C. Procedures and activities for the development, updating, and implementation of the statewide Personnel Development Plan (PDP) which: (1) addresses current and projected special education and related services personnel needs, including the need for leadership personnel; and (2) coordinates and facilitates efforts among state and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds and personnel with disabilities:

Five interrelated mechanisms assure the effective development, updating, and implementation of the State's Comprehensive System of Personnel Development (and the preparation and implementation of the statewide Personnel Development Plan (PDP): (1) the leadership of the State Advisory Panel, (2) the Utah Personnel Preparation Planning (PPP) Council, (3) the CSPD Consortium (a component of USOE's statewide technical assistance network, (4) data submitted annually in the Personnel Development Plan (PDP) component of the local educational agency (LEA) application for funds under Part B of IDEA, and (5) the Special Education Evaluation System (SEES).

The procedures and activities for the development, updating, and implementation of the CSPD (and the statewide Personnel Development Plan) are described below:

1. The State Advisory Panel, Utah State Board of Education Advisory Committee on Special Education (USBEACH), described in the State Rules, set forth the composition and responsibilities of this group. Specific among the Advisory Panel's functions is "participation in the development and implementation of the State's Comprehensive System of Personnel Development". In meeting this obligation, the Panel regularly (a minimum of twice each year) reviews reports pertaining to statewide, regional and local personnel issues submitted by the USOE, other public agencies, institutions of higher education (IHEs), and other interested parties. Additionally, the Panel is responsible for reviewing this State Plan, and recommending, updating and otherwise revising the material reported in draft and final copies of this document.

   The composition of the Panel reflects the diversity demanded in the public participation standards in Section 613(a)(3) of the IDEA, and includes:

   - Individuals with disabilities;
   - Teachers of students with disabilities;
   - Parents of students with disabilities;
   - State and local educational officials;
   - Special education program administrators;
   - University faculty responsible for the professional preparation of teachers and related service providers; and

- At the discretion of the State Board of Education, the Panel may be expanded to include additional members who are involved in or concerned with the education of students with disabilities.

2. The Personnel Preparation Planning (PPP) Council consists of representatives of each of Utah's institutions of higher education responsible for the preparation of personnel for special education and related services. The Council's membership includes:

   - Utah State University;
   - Weber State University;
   - University of Utah;
   - Brigham Young University; and
   - Southern Utah State University;

   The membership of the PPP Council also includes representatives of the Utah State Office of Education.

   The primary goal for the PPP Council is to advise the Special Education Services Unit of the State Office of Education in the development of a Comprehensive System for Personnel Development to assure that personnel necessary to carry out the purposes of the IDEA-B are appropriately and adequately prepared.

   The Council also facilitates the coordination of the CSPD by providing a forum for the interaction of those who have an interest in the preparation of personnel, including personnel from minority backgrounds and personnel with disabilities.

3. The CSPD Consortium is a group comprised of the following members:

   - LEA Representatives - Special Education Coordinator or their representative of 40 Utah School Districts and 4 State Operated Programs (SOPs).
   - SEA Representatives - Special Education Director, CSPD Chairman for USOE, and State Office of Education Special Education Specialists.
   - IHE Representatives - Special Education representation from each of the public and private four year colleges and universities.
   - Parents

   The purpose of the CSPD Consortium is to provide a unique forum to foster extensive public participation and to encourage the broad-based and active cooperation of SEAs, LEAs and IHEs in the development, updating, and implementation of Utah's Comprehensive System of Personnel Development for Special Education. The focus of such efforts is the enhancement of local education agency effectiveness, the result of which promotes the development of students.

In order to provide for the appropriate number of personnel, including personnel from minority backgrounds and personnel with disabilities, required to deliver services to students with disabilities, the Consortium is committed to the following:

a. Sharing the needs of all personnel -- including leadership personnel, personnel from minority backgrounds and personnel with disabilities -- involved in service delivery to students with disabilities, as well as the resources and practices available in all 40 districts of Utah, SOPs, USOE, and IHEs. Thus, the Consortium will provide two-way communication to keep information updated at all levels. (The cooperative exchange of needs data and promising practices will be facilitated through vehicles such as the regular distribution of the Consortium newsletter, needs assessments at all levels (commencing at the building level), Consortium meetings, and formal continuing education programming);

b. Utilization of an ongoing needs assessment of current and projected special education and related services personnel needs, including the need for leadership personnel, personnel from minority backgrounds, and personnel with disabilities (and as implemented through items c. through m. below);

c. Identification of intra-district needs;

d. Prioritization of intra-district needs;

e. Identification of inter-district needs;

f. Prioritization of inter-district needs;

g. Communication between and among all personnel pertaining to needs, resources, implementation, etc.;

h. Identification of resources (inter-district, parent group, state, institutions of higher education, other sources);

i. Utilization of resources to meet identified needs;

j. Implementation of training;

k. Evaluation of training and subsequent assessment of child change;

l. Facilitation of communication relative to the needs of all persons concerned in the education of students with disabilities;

m. The Utah Learning Resource Center is a statewide project designed specifically to deliver continuing education (inservice) activities to all LEAs and SOPs and is under the direct administration of the CSPD Consortium. This project, funded by IDEA-B discretionary funds, is totally guided by LEA needs assessment data and results in regularly scheduled continuing education activities in every area of the State.

4. Each year, in preparation for the submission of the LEA Application for Part B flow-through funds, school districts in Utah must conduct a needs assessment of individualized personnel development needs. This information is subsequently analyzed by the district and, with the counsel and assistance of assigned Utah Learning Resource Center personnel, the LEA prepares a Personnel Development Plan (PDP).

   The PDP developed between the district and the ULRC outlines the services to be provided by the ULRC and is reviewed by USOE Special Education Services Unit. The information collected as a result of this State-level analysis is directed to the USOE personnel responsible for developing the statewide Personnel Development Plan. An accounting of this system for ensuring local-level participation in the development, updating, and implementation of the State's Personnel Development Plan (PDP) and the State's Comprehensive System of Personnel Development as a whole are contained in Attachment C and I to this State Plan.

5. The Special Education Evaluation System (SEES): As detailed in the Annual Evaluation component (Section XIII) and Attachment E to this State Plan, the Special Education Evaluation System serves as a statewide mechanism to determine program effectiveness. The standard data reported annually to the USOE as a result of SEES analysis (i.e., specifically, in two of the five prominent areas of examination prompted by the system -- service coordination and community involvement) provide significant district-generated information related to existing or evolving training needs. The SEES data received at the State level, which is supplemented by training-relevant information collected by USOE during the State's monitoring process and the LEA Application review process (noted above), offer the Special Education Services Unit staff rich evaluation data for the annual updating of the State's Personnel Development Plan.

VIII. D. A description of the procedures and activities used by the State of Utah for the development and maintenance of a system for annual data collection on the numbers and types of special education and related services personnel, including leadership personnel, personnel from minority backgrounds, and personnel with disabilities. This system shall allow the State of Utah to determine, on an annual basis, data on qualified personnel, including:

1. The number and type of personnel, including leadership personnel, employed in the provision of special education and related services by profession or discipline:

2. The number and type of personnel who are employed with emergency, provisional, or temporary certification (i.e., letters of authorization) in each certification, licensure, or other credential comparable to certification or licensure for that profession or discipline; and

3. The number and type of personnel, including leadership personnel, in each profession or discipline needed and a projection of the number of personnel that will be needed in five years, based on projections of individuals served, retirement and other departures of personnel from the field, and other relevant factors.

The five interrelated CSPD mechanisms (e.g., The State Advisory Panel, the Personnel Preparation Planning Council) detailed in Section C above, provide for the collection and analysis of the broad-based personnel information required for a determination of preservice and continuing education needs statewide (and consistent with the Federal requirements of Section 613(a)(3). In addition to the procedures and activities described in Section C above, the USOE administers, on an annual basis, the following initiatives for data collection and the determination of current and future personnel needs:

1. The Master Plan for Addressing Critical Issues Affecting Education in Utah in the 1990's, which was developed and is annually reviewed and updated by the USOE-sponsored Utah System-wide Education Planning Commission, reveals that:

   a. Utah's population has increased from 1,424,700 in 1980 to approximately 2,140,000 in 1990, an increase of 50%.

   b. This growth is the result primarily of two factors: immigration and Utah's high birth rate.

   c. Population growth will have accrued unevenly through the State with some rural areas realizing population increases approaching 150%.

2. A recent study of personnel needs in Utah (1989) conducted under the auspices of the Personnel Preparation Planning (PPP) Council indicated that 400 newly certified special educators are needed annually to keep pace with the current levels of service. This figure, which is annually updated and verified, is consistent with previous calculations in which the five year attrition rate (i.e., including retirements and other departures--currently averaging 20%) was applied to the approximately 2000 professionals providing services to students with disabilities. If the attrition rate increases and predicted growth continues, the need for new special education and related services personnel, including leadership personnel, will exceed this projection.

3. Comparable to the data submitted in the State's FY 1990-92 State Plan, Utah's colleges and universities prepare an average of 450 newly certified special educators annually.

4. The Utah State Office of Education, Teacher Certification Section, reveals that 45% of all the Letters of Authorization (emergency certification), have been issued to persons instructing students with disabilities. Safeguards for the use of the Letters of Authorization are described in the Utah State Certification Rules and are detailed in Section XX of this State Plan (Personnel Standards).

5. The results of graduate student surveys, in which the students are asked to determine appropriateness of preservice training programs for personnel serving students with disabilities, are used to identify possible strengths and weak areas in the training programs. These surveys are conducted annually by the universities and colleges and indicate areas of preservice training that the students felt were lacking in appropriateness as they went to work in the field.

As a result of these assessments, the IHE's modify their preservice training programs in the areas indicated and attempt, in cooperation with the State Board of Education, to fill those training gaps by conducting continuing education activities in accordance with priorities established at the IHE level. In addition, several IHE's have ongoing evaluations of former students' on-the-job performance which is provided annually by supervisors of the former student. This information is also utilized to strengthen the preservice training program.

6. Statewide preservice and continuing education training needs are based upon an analysis of personnel needs data submitted by the PPP Council, the CSPD Consortium, and the Utah System-wide Education Planning Commission, and the Personnel Development Plans (PDPs) prepared annually by each local district. In addition, the USOE's Annual Data Report (previously submitted to OSEP) provides Special Education Services Unit staff with clear and concise data on personnel needs and shortages in each district. This data, analyzed over a three year period (e.g., Academic Year 1989-91) provides the data required for the five year projection of personnel needs. The USOE's Annual Report data is updated and analyzed each year -- with projections being determined accordingly.

7. The following sources of information are annually utilized to determine the State-wide continuing education needs (i.e., training other than that received in a full time program which leads to a degree) for special education and related services personnel, including leadership personnel:

   a. The local district Comprehensive System of Personnel Development (CSPD) Plan, is prepared and submitted by each LEA as a component of the annual application for Part B Flow-through Funds under IDEA. This local plan, based upon an annual assessment of personnel needs and developed in collaboration with assigned staff from the USOE (i.e., Technical Assistants (TAs)) and the Utah Learning Resource Center (ULRC), contains a description of the continuing education (inservice) activities each district has prioritized to bring its staff to minimum competency in the following areas (as appropriate to the district's assessed needs: Diagnostic procedures, instructional procedures for the range of special needs students served in a district, implementation of the Individuals with Disabilities Education Act (IDEA), and its amendments, Individualized Educational Programs (IEPs), least restrictive environment (LRE), procedural safeguards, surrogate parents, non-discriminatory testing, application of advancing technologies media and materials, parent training, and cooperative models of service delivery. Although this narrative offers a rather exhaustive list of continuing education priorities established by individual districts, the training topics cited here do not represent the full range of instructional areas reported by the State's LEAs.

   b. Given the local orientation of Utah's CSPD planning and implementation mechanisms, the State does identify the basic continuing education areas state-wide, but a determination of specific training priorities remains, as it should, at the local (or service delivery) level. A description of the data collection, analysis and reporting process can be found in Attachment A, State Board of Education Special Education Rules.

c. The Comprehensive System of Personnel Development (CSPD) Plan submitted as a component of the school district's Part B Annual Application includes a description of the categories of LEA personnel needing continuing education in specific content areas (as noted above). These personnel include: regular class teachers, special class teachers, resource room teachers, itinerant/consulting teachers, home-hospital teachers, physical educators, vocational educators, teacher aides, work study coordinators, recreational therapists, occupational therapists, speech pathologists, audiologists, psychometrists/educational diagnosticians, psychologists, school social workers, parents of children with disabilities, surrogates, volunteers, hearing officers, supervisors, administrators and other non-instructional staff.

VIII.E. As part of the Comprehensive System of Personnel Development, the USOE must include a description of the procedures and activities which the State will undertake to ensure that the personnel necessary to carry out the purposes of the IDEA-B and U.C.A. 53A-15-301 are appropriately and adequately prepared. The CSPD must include procedures for: (1) the continuing education of regular education, special education, and related services personnel, including leadership personnel; (2) acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from educational research and other sources; and (3) adopting, where appropriate, promising practices, materials, and technology proven effective through research and demonstration.

1. Components C and D of this Section (above) describe the procedures for determining and addressing the continuing education needs of regular education, special education, and related services personnel, including leadership personnel, in the State of Utah. In addition to the system detailed in components C and D, USOE Special Education Services Unit Technical Assistants (TAs) -- State-level professionals assigned to the various school districts -- assess, as part of their technical support role within each district, the specific continuing education needs of that district for the coming year. The information collected as a result of these TA visits supplements the data received via the Annual LEA Application approval process and program monitoring (described below). This material is used substantially in the preparation of the State's Personnel Development Plan.

2. Each year, one-third of all local school districts and state-operated programs (SOPs) are selected by the Utah State Office of Education (USOE) for a Program Administration Review, (PAR). As noted in Sections XIV and XIII, this review examines in detail both the financial and programmatic obligations of each public agency. The substance of each Final Report resulting for each PAR offers a rich source of useful information for State-level training. The compilation of deficiencies noted in the reviews indicate the general continuing education and competency needs of personnel employed in the districts/agencies visited. Continuing education programs are then designed to help fill these training needs.

3. Staff of the Utah State Office of Education and the Utah Learning Resource Center meet with each LEA and SOP to address the continuing education needs of local districts and SOPs. Data from the LEA Annual Application for Part B Flow-through Funds under IDEA, the Program Administrative Review, and formal Technical Assistant (TA) reports are utilized to develop the State's Personnel Development Plan.

4. The State procedures for (1) acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from educational research and other sources, and (2) adopting, where appropriate, promising practices, materials and technology proven effective through research and demonstration are administered through the Utah Learning Resource Center (ULRC) in collaboration with USOE and the State's institutions of higher education (represented through the PPP and the CSPD Consortium). Specific practices, materials, and continuing education sessions conducted as part of the dissemination efforts of the ULRC project are described in Attachment I.

5. As detailed in Section XX (Personnel Standards) of this State Plan, the preservice training programs (i.e., undergraduate- and graduate-level) which prepare special education and related services personnel, including leadership personnel, must be approved by the State Board of Education. Copies of each program of preparation are on file in the Teacher Certification Office of the USOE's Division of Agency Services. The Utah State Board of Education is responsible for the evaluation, on a program-approval basis, of all teacher education programs in the State. The process of program approval includes a visit once every five years to each institution of higher education training special education teachers. During the approval visit each teacher education program leading to certification is evaluated according to the Standards for State Approval of Teacher Education developed by the National Association of State Directors of Teacher Education and Certification (NASDTEC) which have been adopted by the Utah State Board of Education as the official Utah Standards.

The following table summarizes the training programs available at universities and colleges in Utah to prepare special education teachers.

CERTIFICATES

University/College	Mild Mod.	Sev. Hand.	V. I.	C. D. Sp.	C. D. Audi.	Deaf	HI	Preschool Hand.
University of Utah	X	X		X	X			X
Brigham Young Univ.	X	X		X	X			
Utah State University	X	X		X	X	X	X	X
Weber State University	X							
Southern Utah State University	X							
Multi-Univ.Consortium (UofU/USU/BYU)			X				X	

6. Incentives for participation in continuing education activities may include but not be limited to: university credit, State Board of Education inservice credit, provision for substitutes, stipends, expense reimbursement and professional leave opportunities.

7. In addition to the technical assistance and "promising practices" dissemination and adoption network afforded Utah's public agencies through the ULRC, the PPP and the CSPD Consortium (each identified previously), the USOE continues to ensure knowledge of and the acquisition of promising, research-based practices throughout the State through (1) the regular publication by the ULRC of the Utah Special Educator, and (2) the administration at least twice each year of formal site visits by Technical Assistants (TAs) to each school district and State Operated Program (SOP).

IX. PARTICIPATION OF PRIVATE SCHOOL CHILDREN 613(a)(4)(A)

Section 613(a)(4)(A) of IDEA-B, as amended, requires that the State Plan "set forth policies and procedures to assure that, to the extent consistent with the number and location of students with disabilities in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such students in the program assisted or carried out under (Part B) by providing for such students special education and related services."

IX. A. The Utah State Board of Education has established policies and procedures which assures that to the extent consistent with the number and location of students with disabilities in the State who are enrolled in private elementary and secondary schools, opportunity will be made for participation by such students in programs and projects as described in their IEPs and which are assisted or carried out under Part B. Each LEA is responsible for providing special education and related services to meet the needs of private school students with disabilities in its jurisdiction.

1. Genuine opportunities shall be made available by the LEA for participation of eligible students with disabilities in special education and related services consistent with the EDGAR provisions and IDEA-B. These services may be provided through such arrangements as dual enrollment, educational television and radio, or the provision of mobile educational services.

2. Each LEA shall provide genuine opportunities to participate in a manner that is consistent with the number of eligible private school students and their needs.

3. Each LEA shall maintain continuing administrative direction and control over funds and property that benefit students enrolled in private schools.

4. The State Office of Education ensures that each LEA complies with the requirements in 76.651 - 76.662 through its monitoring and LEA application approval process (See subpart B of the section).

5. If the State Office of Education carries out a project directly, it shall comply with the EDGAR provisions as if it were an LEA.

6. Representatives from the local education agency shall consult with appropriate representatives of students enrolled in private schools during the development and design of projects and consider:

   a. Which students will receive benefits, what the benefits will be and how the benefits will be provided;

   b. How the students' needs will be identified; and

   c. How the project will be evaluated.

7. The LEA must consult with appropriate representatives of students enrolled in private schools before the local education agency makes any decisions which will affect the opportunities of private school students to participate in projects.

8. The LEA shall give the appropriate representatives a genuine opportunity to express their views regarding each matter subject to the consultation requirements in 76.652.

9. Each LEA shall determine the special education and related service needs of students with disabilities enrolled in private elementary and secondary schools, the number of such students who will participate in the programs and projects, and the types of benefits which will be provided for them on a basis comparable to that used in providing for the participation in programs and projects assisted or carried out under Part B of the Act by students with disabilities enrolled in public elementary and secondary schools. The SEA will insure that public agencies develop and implement IEPs for such students. The public agency will insure that a private school representative will be involved in meetings to develop, review, or revise IEPs of such students. If the representative cannot attend, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls.

10. The program benefits which a recipient provides for eligible students with disabilities enrolled in private schools must be comparable in quality, scope, and opportunity for participation to those students enrolled in the public school.

11. If a local education agency used Part B funds for public school students in a particular attendance area, grade or age level, the local education agency must then insure that equal opportunities for participation are made available to students enrolled in private schools who have the same needs as the public school students and are in that group, attendance area, age or grade level.

12. Services to eligible private school students may differ from services provided to public school students if it is deemed necessary to meet their needs and the services are comparable in quantity, content, and opportunity as determined by persons knowledgeable of the student's needs.

13. Except in instances where the program benefits for private school students may be different due to necessity, the LEA must insure that it will spend the same average amount of program funds on students enrolled in private schools as those enrolled in public schools who receive similar benefits under the program.

14. An LEA shall spend a different average amount on program benefits for private school students only if the average cost of meeting the needs of those students is different from the average cost of meeting those same needs of students enrolled in the public schools.

15. An LEA application for IDEA-B flow-thru funds shall include the following information/descriptions:

    a. How the applicant will meet the Federal requirements for participation of students enrolled in private schools;

    b. The number of students enrolled in private schools who have been identified as eligible to benefit under the program;

c. The number of students enrolled in private schools who will receive benefits under the program;

d. The basis the applicant used to select the students;

e. The manner and extent to which the applicant complied with Section 76.652 of EDGAR (consultation);

f. The places and times that the students will receive benefits under the program; and

g. The difference, if any, between the program benefits the applicant will provide to public and to private school students, and the reason for the differences.

16. An LEA may not use program funds for classes that are organized separately on the basis of school enrollment or religion of the students if:

a. The classes are at the same site; and

b. The classes include students enrolled in public schools and students enrolled in private schools.

17. An LEA may not use program funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

18. An LEA shall use program funds to meet specific needs of students enrolled in private schools, rather than:

a. The needs of the private school; or

b. The general needs of the students enrolled in a private school.

19. Public school personnel may be made available in other than public school facilities only to the extent necessary to provide the special educational and related services required by the students with disabilities for whose needs such services were designed, and only when such services are not normally provided at the private school. The LEA providing educational and related services to students in private schools shall maintain administrative control and direction over such services.

20. The special educational and related services provided with funds under Part B of the IDEA for eligible students with disabilities enrolled in private schools shall not include the payment of salaries of teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control.

21. The equipment and supplies acquired with funds under Part B of the IDEA may be placed on private school premises for a period of time needed for the project, but the title to and administrative control over such equipment and supplies must be retained and

exercised by a public agency. In exercising that administrative control, the public agency shall not only keep records of and account for the equipment and supplies, but shall also assure itself that the equipment and supplies are being used solely for the purposes of the program or project, can be removed from the private school without remodeling the private school facilities, and remove the equipment and supplies from the private school premises when necessary to avoid its being used for other purposes or when it is no longer needed for the purposes of the program or project.

22. The SEA and LEA shall insure that program funds are not used for the construction of private school facilities.

IX. B. The State Office of Education ensures the implementation of this requirement through its program administrative review process and LEA application approval procedures for IDEA-B flow-thru funds (Attachments B and C).

1. The State's program monitoring manual includes a review of local policies and procedures for students with disabilities voluntarily enrolled in non-public schools and a student records review for this population.

2. The State's LEA application for Federal funds includes the child count data and information/descriptions required under the EDGAR provisions.

X. PLACEMENT IN PRIVATE SCHOOLS 613(a)(4)(B)

Section 613(a)(4)(B) of IDEA-B, as amended, requires that the State Plan "set forth policies and procedures to assure that students with disabilities in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by IDEA-B) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local education agency as a means of carrying out the requirements of Part B or any other applicable law requiring the provision of special education and related services to all students with disabilities within the State, and in all such instances the State Education Agency shall determine whether such schools and facilities meet standards that apply to state and local education agencies and that students so served have all the rights they would have if served by such agencies."

X. A. The State Board of Education has established the following policies for the placement of students with disabilities in private schools:

1. If students with disabilities are placed in or referred to private school or facilities by the state or local education agency as a means of meeting the educational needs specified in the IEP, the referring agency will be required to assure that:

   a. The services provided are in conformance with the IEP;

   b. The services provided are at no cost to the parents; and

   c. The program meets minimum Utah State Office of Education standards.

   NOTE: The public agency will initiate and conduct an IEP meeting before referring or placing a student in a private school or facility and insure the attendance or participation in the meeting of a representative of the private school or facility. If the representative cannot attend, the public agency shall use other methods to insure participation by the private school or facility, including individual or conference telephone calls. The public agency shall also develop an IEP for each student with a disability who was placed in a private school or facility by the public agency before the effective date of the Part B Regulations.

2. When a student with disabilities is offered a free appropriate public education in a public education agency that is readily accessible to his/her home community and the parents waive the opportunity in favor of private school placement, the parents shall assume full financial responsibility for the student's education. However, the public agency shall make services available to the student, under Section IX., of this Plan.

3. If a parent contends that he/she has been forced, at the parent's own expense, to seek private schooling for the student because an appropriate program does not exist, and the responsible agency disagrees, that disagreement and the question of who remains financially responsible is a matter to which the due process procedures apply.

4. Whenever students with disabilities are placed in private schools or facilities by public education agencies, the State Office of Education shall assure that the students have all the rights they would have if educated in a public school.

5. LEAs will be responsible when placing a student in a private school to provide said school with copies of the State Board of Education Special Education Rules and revisions as they occur, and interpret the requirements specified in the IDEA-B State Plan.

6. Responsible persons for conducting programs in private schools will be notified of activities which may result in revision of the State Board of Education Special Education Rules relating to special education and will be invited to participate in such activities.

7. After a student with disabilities enters a private school or facility, any meetings to review and revise the student's individualized education program may be initiated and conducted by the private school or facility at the discretion of the public agency.

8. If the private school or facility initiates and conducts these meetings, the public agency shall insure that the parents and an agency representative:

   a. Are involved in any decision about the student's individualized education program; and

   b. Agree to any proposed changes in the program before those changes are implemented.

9. Even if a private school or facility implements a student's individualized education program, responsibility for compliance with this part remains with the public agency and the State Office of Education.

X. B. The State assures the implementation of this requirement through its LEA application review/approval process and comprehensive program monitoring system through procedures such as written reports, on-site visits, and parent questionnaires. In addition, annually, the State Director of Special Education develops and disseminates a list of approved private schools, for the placement of students with disabilities, to all applicable agencies within the State.

XI. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN 613(a)(5)

Section 613(a)(5) of the IDEA-B, as amended, states that the State Plan must "set forth policies and procedures which assure that the State shall seek to recover any funds made available under Part B for services to any student who is determined to be erroneously classified as eligible to be counted under the Act."

XI. A. The Utah State Board of Education Special Education Rules describe the procedures required for determining a disabling condition and eligibility for special education services (Attachment A).

A student with disabilities whose diagnostic record does not support or substantiate the classification of a disabling condition, will be considered an erroneously classified student not eligible to be counted under the provisions of the state or federal requirements, or to receive federal or state funds.

XI. B. The Utah State Office of Education provides program and financial audits on a regularly scheduled basis. The Single Audit procedures must also include special education programs, and will be conducted in every school district each year (Attachment A). These audits will determine whether criteria established by the Utah State Board of Education Special Education Rules have been met by reviewing the required documentation of selected classified students. If a student is found to be misclassified and federal and/or state expenditures have been made for direct or related service to that student, a notification of audit exception will be given to the district. Reimbursement for expenditures made on an erroneously classified student with disabilities will be made to the State Office of Education within ninety (90) days of notification of audit exception.

If a district disagrees with the findings of the Utah State Office of Education, a hearing may be requested.

XI. C. In addition to the audit procedures described above, the state's monitoring system and SCRAM process contain procedures for verifying the accuracy of the Part B Child Count (Attachments B and D).

XII. NOTICE AND OPPORTUNITY FOR HEARING ON LEA APPLICATION 613(a)(8)

Section 613(a)(8), of the IDEA-B, as amended, states that the State Plan must "provide procedures to assure that final action with respect to any application submitted by a local education agency or an intermediate education unit shall not be taken without first affording the local education agency or intermediate education unit involved reasonable notice and opportunity for a hearing."

XII. A. If the local education agency application is found to be in noncompliance with the provisions of the IDEA-B and the requirements for submission as described in State Board of Education policy, the local education agency will be given reasonable notice and provided an opportunity for a hearing.

XII. B. The State Office of Education shall provide the local education agency with notice and an opportunity for a hearing if it alleges that any of the actions by the local education agency violated a state or federal statute or regulation when the State Office of Education:

1. Orders, in accordance with a final state Program Administrative Review and audit resolution determination, the repayment of misspent or misapplied federal funds; or

2. Terminates further assistance for an approved project.

XII. C. The State Office of Education will provide an opportunity for a hearing for any public agency either before or after disapproval of the annual application which is made under the provisions of P.L. 94-142, as amended, or before withholding Part B funds resulting from noncompliance with provisions of the IDEA-B by the public agency.

1. If a pubic agency disagrees with the decision of the State Office of Education, it shall request a hearing within thirty (30) days of the action.

2. Within thirty (30) days after it receives a request for a hearing, the State Office of Education shall hold a hearing on the record and shall review its action.

3. No later than ten (10) days after the hearing the State Office of Education shall issue its written ruling, including findings of fact and reasons for the ruling.

4. If the State Office of Education determines that its action was contrary to State and Federal statutes, regulations, or rules that govern the program, the State Office of Education shall rescind its action.

5. If the USOE does not rescind its final action, the public agency may appeal the decision to the U.S. Department of Education, Secretary of Education. The appeal must be filed within twenty (20) days after the public agency is notified of the final actions of the State Office of Education.

6. If supported by substantial evidence, the U. S. Secretary of Education shall rule in favor of the State Office of Education. The public agency may then request judicial review.

7. The U. S. Secretary of Education may also issue such interim orders to the State Office of Education as he or she may decide are necessary and appropriate pending appeal or review.

8. If the U. S. Secretary of Education determines that the action of the State Office of Education was contrary to Federal statutes or regulations that govern the program, the Secretary shall issue an order that requires the State Office of Education to take appropriate action.

9. If the State Office of Education does not comply with any provision of this section, or with any order of the U. S. Secretary of Education under this section, the Secretary shall immediately terminate all assistance to the State Office of Education under the program.

10. The State Office of Education may appeal the decision of the Secretary to the courts for judicial review.

11. The State Office of Education shall make available at reasonable times and places to each local education agency, all records of the agency pertaining to any review or appeal and the local education agency shall be provided records of other applicants upon request.

XIII. ANNUAL EVALUATION 613(a)(11)

Section 613(a)(11) of IDEA-B, as amended, requires the State Plan to "provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of students with disabilities (including evaluation of individualized education programs) in accordance with such criteria that the Secretary shall prescribe pursuant to the Act."

XIII. A. The procedures administered in the State of Utah to determine, on an annual basis, the effectiveness of special education and related services programming (including the implementation of IEPs) are incorporated in four (4) discrete, yet interrelated devices: (1) the Special Education Evaluation System (SEES), (2) the annual review of IEPs conducted by local school districts, (3) fiscal monitoring, and (4) the local education agency (LEA) application process.

In conformance with the State Board of Education Special Education Rules, representatives of local, intermediate and state-level agencies (other than USOE) have been invited by the Special Education Services Unit (SESU) to participate in the development, analysis and refinement of the various mechanisms detailed in this section. Such public agency participation is provided through vehicles such as (but not limited to): service on regulation or program task forces, opportunities for public comment during hearings or in response to formal proposals disseminated to the field, and/or scheduled meetings with SESU personnel.

A description of the existing procedures for annual evaluation follow:

1. **The Special Education Evaluation System (SEES)**: Developed under the auspices of Utah Consortium for a Comprehensive System of Personnel Development, and local directors of special education, the Utah SEES is an evaluative mechanism which assesses the operation and effectiveness of special education programs in five fundamental areas: (a) student outcomes, (b) effective instruction, (c) student records (including IEPs), (d) service coordination, and (e) community involvement. A detailed accounting of SEES procedures is offered as Attachment E to this Plan (including the formal system of: (i) questions and elaborations, (ii) standards, and (iii) evaluation design and instruments applied in the measurement of each of the five (5) program areas noted above).

   As described in the SEES Manual (Attachment E), the information collected through the SEES process by local teams is organized in a standard format for district-level analysis and for subsequent submission to the Utah State Office of Education. Thus, SEES has become a valuable tool for evaluation and program refinement at the local level, while simultaneously providing the USOE with essential data for determining program effectiveness statewide.

2. Consistent with the requirements of the State Board of Education Special Education Rules, the IEP team appointed by the local district for each student with disabilities will reevaluate the appropriateness of placement and the effectiveness of the individualized education program not less frequently than once every year. In conducting the required evaluation of the IEP, each team must assess the short-term

instructional objectives on the basis of data collected over the course of the year. Based upon this analysis, a new IEP is prepared at least once a year for all eligible children and youth with disabilities.

3. The Single Audit procedures conducted annually under the auspices of USOE's Division of School Finance and Business provides the State with both essential financial data and information pertinent to the district's use of funds for the operation of effective programs for students with disabilities. As detailed in the State Board of Education Special Education Rules, the analysis administered under the Single Audit procedure "determines whether criteria established by the Rules have been met...". A pivotal component of the State's Single Audit review is the analysis of SCRAM data (required information collected through the Self Contained Resource Accounting Method). Attachment D to this Plan describes the SCRAM data collection and review procedures.

   In addition to a separate fiscal document review, Special Education Services Unit (SESU) staff analyze, as part of the program monitoring procedures, the findings reported through the Single Audit system. Program monitoring efforts conducted under the auspices of the SESU (detailed in Attachment B of this Plan) provide an effective safeguard for ensuring that special education funds, and the programs to which such support is directed, are effectively administered.

4. Each year, in order to receive support under the Part B of the Individuals with Disabilities Education Act, LEAs must submit an annual application. During the Spring of 1988, USOE designed a new annual application, to address all requirements under IDEA and EDGAR. A copy of this material, supplemented by the application form's technical assistance and evaluation manual and the application approval checklist are offered as Attachment C to this Plan.

   The information submitted annually by each district applicant and reviewed by USOE staff affords the State a rich source of program effectiveness data and requires a yearly assessment of the procedures by which Individualized Education Programs (IEPs) are developed, implemented and reviewed. Attachment C (noted above) provides a detailed accounting of the procedures administered at both the local and state level in the implementation of the annual application process.

XIII. B. The data collected as a result of the LEA annual application process allows USOE to: (1) determine district compliance with all Federal special education requirements, (2) identify areas of common concern among districts which can be addressed through the SESU Technical Assistance system, (3) comply (as noted above) with the program effectiveness and IEP review standards incorporated in Section 300.146 of the IDEA and (4) collect information necessary for the establishment of training priorities to carry out the State's Comprehensive System of Personnel Development (CSPD), Section VIII of this Plan.

XIV. RESPONSIBILITY OF SEA FOR EDUCATION PROGRAMS 612(6)

XIV. A. The authority and responsibility to make policy and set standards in the area of education for students with disabilities rests with the State Board of Education by virtue of its constitutional mandate to provide general control and supervision of the public school system (Article X, Section 8) and by specific legislative enactment found in the Utah Code, Annotated: 53A-15-301, 53A-15-302, and 53A-15-303. The statutes cited also indicate an intended partnership arrangement between the State Board of Education and local school districts. The statute also provides for general supervision of programs for students with disabilities served by all public agencies and institutions concerned with the training of students with disabilities.

53A-15-301.

(1) All students with disabilities, who are between the ages of three and 22 and have not graduated from high school, are entitled to a free, appropriate public education. The State Board of Education shall adopt Rules consistent with applicable state and federal law to implement this chapter.

(2) The Rules adopted by the State Board shall include the following:

(a) Appropriate and timely identification of students with disabilities;

(b) Diagnosis, evaluation, and classification by competent personnel;

(c) Standards for classes and services;

(d) Provision for multi-disciplinary programs;

(e) Provision for out-of-district placement if necessary;

(f) Certification and qualifications for instructional staff; and

(g) Qualification standards for aides and instructional assistants.

(3) The State Board shall have general control and supervision over all educational programs for students with disabilities within the State. Those programs must comply with Rules adopted by the State Board under this section.

(4) The state superintendent of public instruction shall enforce this chapter.

53A-15-302.

(1) The State Board of Education shall appoint a state director of special education, who shall be qualified and experienced in the area of special education.

(a) To assist the state board and state superintendent of public instruction in performing their duties under this chapter;

(b) To encourage and assist school districts and other authorized public agencies in the organization of programs for students with disabilities;

(c) To provide general supervision over all public programs offered through a public school, public agency, public institution, or private agency for students with disabilities;

(d) To cooperate with private schools and other private agencies concerned with educating and training students with disabilities; and

(e) To coordinate all state programs for students with disabilities.

53A-15-303.

(1) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district. The program shall include necessary special facilities, instruction, and education-related services. The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this chapter in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under Chapter 17, Title 53A, the Minimum School Finance Act and other applicable laws.

(3) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than three and older than 21. The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

In addition, as stated in Utah's Special Education Rules, in order to obtain funds under Part B of the Individuals with Disabilities Education Act (IDEA-B), the State Office of Education must submit to the U. S. Department of Education, on behalf of the State of Utah as a whole, a State Plan containing written policies and procedures governing the operation of special education programs and must comply with a series of federal administrative requirements described in these Rules. Therefore, all provisions under Part B of IDEA apply to each political subdivision of the State that is involved in the education of students with disabilities, irrespective of whether the subdivision receives any funds under IDEA-B. The requirements of Part B are binding on each public agency that has direct or delegated authority to provide special education and related services in the State of Utah.

The coordination of federal program activities including funding is vested in the State's Coordinating Council for Persons with Disabilities (CCPD). One of the major responsibilities of the CCPD is to define the financial obligation of each member agency for providing students with disabilities with a free and appropriate public education. In addition, the CCPD provides a mechanism for statewide planning and information sharing on programs for students with disabilities.

XV. CONFIDENTIALITY 612(2)(D)

Section 612(2)(D) of IDEA-B, as amended, states that the State Plan shall set forth in detail the policies and procedures the State has undertaken to assure the "protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and LEAs pursuant to the provisions of the Act."

XV. A. The State Board of Education has established policies and procedures for the implementation of the Confidentiality requirements under IDEA-B and the regulations implementing the Family Educational Rights and Privacy Act (Attachment A).

Parental notification about the requirements related to the identification, location, and evaluation of students with disabilities include:

1. The provision for providing parental notice, where appropriate, in the native language of the home.

2. Personally identifiable information is maintained on students eligible for special education and related services. This includes information relevant to a student's "specific disabling condition," diagnostic reports which determines the existence of such a disabling condition, and the individualized educational program designed to meet the student's needs.

3. Personally identifiable information will be gathered from in-school screening, pre-referral procedure, qualified diagnostic examinations and other appropriate sources, required to complete a comprehensive assessment in order to determine eligibility for special education and related services.

4. Policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information described in this section.

5. Parents and eligible students shall be informed of rights and procedures the public agency has adopted to protect the confidentiality of personally identifiable information which include:

    a. The right of access of personally identifiable information by parents or eligible students.

    b. The assurance that a record is maintained of parties obtaining access to personally identifiable information except for parents and authorized employees of the educational agency(ies) serving the student.

    c. The parental right of access to the education records concerning only his/her child.

    d. The right to know the location of personally identifiable information upon request.

e. The parental right to a copy of the educational record for the standard copying fee except that the parental shall be given, upon request, a copy of the IEP, without charge.

f. The parental right to request the amending of the educational record.

g. The parental right to a hearing to challenge the educational record of his/her child.

h. The assurance that parental permission will be obtained prior to disclosure to any third party.

i. The assurance that each agency possessing personally identifiable information will safeguard its confidentiality.

j. The parental right of notification prior to destruction of personally identifiable information.

6. Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

XV. B. Each participating agency shall permit parents to inspect and review any education records relating to their student which are collected, maintained, or used by the agency under this part.

1. The right to inspect and review education records under this section includes:

   a. The right to response from the participating agency to reasonable requests for explanations and interpretations of the records;

   b. The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records;

   c. The right to have a representative of the parent inspect and review the records; and

   d. The right to review all records related to the identification, evaluation, placement, and provision of a free appropriate public education.

2. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation or placement of the student, and in no case more than 45 calendar days after the request has been made.

3. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not

have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

XV. C. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

XV. D. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

XV. E. Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

XV. F. A participating education agency may charge a fee (not to exceed cost of copying) for copies of records which are made for parents under this part, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, but may not charge a fee to search for or to retrieve information under this part.

XV. G. A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the student, may request the participating agency which maintains the information to amend the information.

1. The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

2. If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent of the refusal, and advise the parent of the right to a hearing under 34 CFR 300.568.

XV. H. The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

1. If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

2. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parents of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanation placed in the records of the student under this section must:

a. Be maintained by the agency as part of the records of the student as long as the record or contested portion is maintained by the agency; and

b. If the records of the student or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

XV. I. A hearing which challenges the education records must be held in accordance with 34 CFR 99.22, Section 438, P.L. 90-247. At a minimum, a public agency's hearing procedures must include the following elements:

1. The hearing shall be held within a reasonable period of time after the public agency received the request, and the parent of the student or eligible student shall be given notice of the date, place and time reasonably in advance of the hearing.

2. The hearing may be conducted by any party, including an official of the public agency, who does not have a direct interest in the outcome of the hearing.

3. The parent of the student or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised, and may be assisted or be represented by individuals of his or her choice at his or her own expense, including an attorney.

4. The public agency shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.

5. The decision of the public agency shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

XV. J. Parental consent must be obtained before personally identifiable information is:

1. Disclosed to anyone other than officials of participating agencies collecting or using the information under this part; or used for any purpose other than meeting a requirement under this part.

2. An educational agency may not release information from education records to participating agencies without parental consent unless authorized to do so by 34 CFR 99.31 and 99.34 Section 438, P.L. 90-247.

3. If the parents refuse consent for the release of personally identifiable information to a third party, then that party may proceed with a due process hearing (Section V.E. of this plan) in an effort to obtain the desired information.

XV. K. Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction states.

1. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

2. All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures concerning personally identifiable information.

3. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information on students with disabilities.

XV. L. The public agency shall inform parents when personally identifiable information collected, maintained or used under this part is no longer needed to provide educational services to the student. The information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, his or her grades, attendance record, classes attended, and grade level completed may be maintained without time limitation.

XV. M. All of the foregoing parental rights are extended to the student when reaching the age of majority (age 18) unless the student has been declared incompetent by court order and assigned a guardian; however, the parental rights are not removed from parent.

XV. N. The methods the State Office of Education use to insure that its policies and procedures, including sanctions, are followed and that the IDEA-B requirements under this part are met include:

1. An LEA application review/approval process which requires local school districts to address each of the confidentiality requirements noted in this section.

2. A comprehensive program administrative review process which provides for the on-site analysis of public agency policy and procedures, including a student records review.

The sanctions available to the State for non-compliance include the repayment of misspent or misapplied Federal funds and the withholding of Part B funds until corrective actions are taken by the public agency.

XVI. DIRECT SERVICES BY THE SEA 613(b)

Under State statute, the State Board of Education is directly responsible for the education of students with disabilities at the State Training School, Utah State Hospital, and Department of Corrections (Attachment G). In fulfilling this obligation, the legislation allows the Board to contract with appropriate private or public agencies for the provision of educational and related administrative services. The Board elected to contract with the local school districts in which the three facilities were located in order to implement the statute. These contractual arrangements obligate the districts to meet all of the State Board of Education Special Education Rules, including the information required under 34 CFR 300.226 through 300.228, 300.231, and 300.235. The Utah State Office of Education ensures the implementation of all of the Part B requirements through its comprehensive Program Administrative Review (PAR) process. The PARs conducted in the districts providing services to these students include the review of the programs established for these populations.

XVII. POLICIES AND PROCEDURES FOR USE OF PART B FUNDS 613(a)(1)

The general administration and disbursement of IDEA-B funds by the Utah State Office of education conform to the following policy and procedures:

1. Federal funds available for students with disabilities under Part B of IDEA, shall be used solely to supplement and not supplant, state and local funds appropriated to serve students with disabilities.

2. Procedures governing the use of Part B funds for state administration, LEA entitlement, and state discretionary support (i.e., used to supplement LEA entitlement) of a free appropriate public program of special education and related services are as follows:

   a. State Administration. The Utah State Office of Education (USOE) will use an amount of funds not greater than 5% of the State's allocation for any Fiscal Year for administrative costs related to carrying out the provisions of the Act (IDEA-B). However, this amount will not be greater than 25% of the State's total allotment for the fiscal year under Part B of the Act. The USOE will utilize State administrative funds available under Part B (1) to administer the State Plan, (2) for planning at the state level and (3) assisting in the planning and design for programs, local, regional or state level, and projects for students with disabilities.

      Specific activities to be performed in the management and control of federal funds will include (1) approval, supervision, monitoring, technical assistance, audit and evaluation of programs and projects for the education of students with disabilities, (2) technical assistance to school districts with respect to the Part B requirements, (3) leadership services for the program supervision and management of special education activities for students with disabilities, and (4) other state leadership activities and consultative services.

   b. LEA Entitlement (Flow-Through). The Utah State Office of Education shall disburse to LEAs at least 75% of the State's allocation for any Fiscal Year. Each LEA shall be entitled to an amount which bears the same ratio to the total amount available for flow-through, for any Fiscal Year, as the number of students with disabilities aged 3 through 21, receiving special education and related services as reported on the December 1 child count prior to the grant period and upon which the State's allocation is determined, bears to the aggregate number of students with disabilities which the State Education Agency has certified and submitted to the U. S. Secretary of Education.

   c. State Discretionary Funds for District and Support Services. The Utah State Office of Education shall use the portion of its allocation it does not use for administrative costs to provide funds to be awarded on an application basis to LEAs to assist in supplementing the costs of programs and services and to provide support services relating to the provision of a free appropriate public education (i.e., implementation of the Comprehensive System of Personnel Development) in accordance with the priority requirements under Part B of IDEA.

These funds may also be used for the administrative costs of USOE's monitoring and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during Fiscal Year 1985.

For the purposes of this section:

a. "Direct Services" means services provided to a student with disabilities by USOE directly, by contract, or through other arrangements; and

b. "Support Services" includes implementing the Comprehensive System of Personnel Development, recruitment and training of hearing officers and surrogate parents, and public information and parent training activities related to a free appropriate public education for students with disabilities.

XVIII. DESCRIPTION OF USE OF PART B FUNDS

I. State Allocations

A. Administrative Positions and Percent of Salary Paid with Part B Funds

NAME	TITLE/JOB DESCRIPTION*	PERCENT FROM IDEA-B		
		1993	1994	1995
Taylor, Mae	Coordinator, Special Education State & Federal Compliance Officer	100	100	100
Freston, Janet	Specialist Severe Disabilities	20	20	20
Haley, Les	Specialist, Data/Fiscal Management	90	90	90
Hennefer, Ken	Specialist Transition Services	100	100	100
Hostetter, Cheryl	Specialist Special Education Administration	100	100	100
Killoran, John	Specialist, Early Childhood	100	100	100
Reavis, H. Ken	Specialist, Behavior Disorders, and CSPD	100	100	100
Sheld, Dale	Specialist Communication Disorders Learning Disabilities	100	100	100
Suter, Donna	Project Director STUDY Project	20	20	20
Williams, Mary Ann	Specialist At Risk Programs	30	30	30

* See Attachment M for an expanded description of each staff member's duties.

IDEA-B State Administration and Discretionary Monies - 20% of Total Grant (Utah Flows through 80% to LEAS):

	Estimated Expenditure 1993	Estimated Percent 1994	Estimated Percent 1995
I. State Administration Staff Salaries $624,000 Fixed Costs $317,857	$ 941,547	5%	5%
II. Statewide Training Activities (15% Discretionary Fund)			
A. Inservice and demonstration of promising practices and use of instructional materials and other media for personnel development and instructional programming.	$1,910,000	68%	68%
1. CSPD (Comprehensive System of Personnel Development)	$1,075,000	56%	56%
2. Coordinated Trans-agency Delivery System	$ 175,000	9%	9%
3. Integration	$ 260,000	14%	14%
4. Transition	$ 200,000	10%	10%
5. Social Skills Competency	$ 50,000	3%	3%
6. Unified System of Education	$ 150,000	8%	8%
B. Inservice and demonstration of promising practices and use of instructional materials and other media for personnel development and instructional programming.	$ 400,000	15%	15%

		Estimated Expenditure 1993	Estimated Percent 1994	Estimated Percent 1995
1.	PAR (Monitoring, Compliance)	$ 182,000	55%	55%
2.	LD Disk Development/support	$ 50,000	13%	13%
3.	TAT / SWAT, Conference	$ 100,000	25%	25%
4.	Classroom Management	$ 30,000	7%	7%
C.	Conferences and Staff-support activities(nonadministrative)	$ 500,000	17%	17%
1.	Statewide Conferences	$ 155,000	30%	30%
2.	Staff-supported activities (non-administrative)	$ 245,000	50%	50%
3.	Unified Advocacy (Supported activity)	$ 50,000	10%	10%
4.	Public Awareness (Supported Activity)	$ 50,000	10%	10%
SUBTOTAL: 15% DISCRETIONARY FUND:		$2,810,000	100%	100%
A.	Inservice / CSPD	$1,910,000	68%	68%
B.	Inservice / CSPD	$ 400,000	15%	15%
C.	Conferences and Staff-support activities(nonadministrative)	$ 500,000	17%	17%
TOTAL ADMINISTRATIVE AND DISCRETIONARY FUND - 20%:		$ 3,751,547	100%	100%

C. State Advisory Panel: Utah State Board of Education Advisory Panel on Special Education (USBEACH).

1. Activities to be conducted during FY 1993-95:

a. The Panel will conduct regularly scheduled monthly meetings except in July and August.

b. The time, place, and agenda of all advisory panel meetings will be publicly announced prior to the meeting, and meetings will be open to the public.

c. The Panel will hold an annual workshop during the summer.

d. The Panel will keep official minutes of all meetings that will be available to the public on request.

e. The Panel will employ interpreters for the deaf who will attend all scheduled meetings and activities if needed, and provide for accessibility to the meetings.

f. The Panel will disseminate items of interest to Panel members.

g. The Panel will prepare for distribution, a brochure describing Panel activities and membership.

h. The Panel will prepare an annual final report of its activities and official actions by July 1 of each year.

i. Members of the USBEACH volunteer to accompany and observe with the SEA PAR teams which will provide communication between SEA monitoring activities and panel responsibilities. Panel members will be trained to participate as PAR team observers by the SEA.

j. The Panel will study the membership representation of the Panel and validate the appropriateness of the members and conformation as prescribed by law and regulations.

k. The Panel will prepare and submit to the State Superintendent of Public Instruction, reports and recommendations.

l. The Panel will visit exemplary programs to keep informed of current trends and innovations in special education.

m. The Panel will establish and maintain standing subcommittees for the purpose of advising the Panel on the status of programs and services and describing unmet needs.

n. The Panel will establish ad hoc committees for the purpose of studying continuing and critical events in the education of students with disabilities.

o. The Panel will advise the State Educational Agency of unmet needs within the State in the education of students with disabilities.

p. The Panel will comment publicly on the State Plan and State Rules proposed for issuance by the State regarding the education of students with disabilities and the procedures for distribution of funds under this part.

q. The Panel will assist the State in developing and reporting such information and evaluations as may assist the U.S. Secretary of Education in the performance of his responsibilities under section 618.

All activities and projects conducted by the State Advisory Panel are funded from P.L. 94-142, Part B, 5% administrative funds. The projected amount of funding is $7,000.00 for each of the fiscal years between 1993 and 1995.

II. Local Education Agency Allocations

A. Number and percent of LEA which will receive an allocation under Part B.

	1993	1994	1995
Number of School Districts	39	39	39
Percentage	98	98	98

B. One LEA will submit a consolidated application in conjunction with a neighboring LEA. The provisions defined in the consolidated application must be carried out as described and the use of federal funds must be consistent with federal requirements.

C. It is not anticipated that the Utah State Office of Education will use Part B funds to provide direct services under the provisions of 300.360.

XIX. INTERAGENCY AGREEMENTS 613(a)(13)

Section 613(a)(13) of the IDEA-B, as amended, states that each State Plan set "forth policies and procedures for developing and implementing interagency agreements between the State Educational Agency (SEA) and other appropriate state and local agencies to:

1. Define the financial responsibility of each agency for providing children and youth with disabilities with free appropriate public education, and

2. Resolve interagency disputes, including procedures under which Local Education Agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement."

Attachment F contains Utah's Administrative Procedures Act, which, in addition to serving as a policy statement, details the procedures by which issues of program and financial responsibility are determined and conflicts arising from interagency efforts are resolved. The Administrative Procedures Act also identifies procedures under which the LEAs and other public agencies may initiate proceedings in order to secure reimbursement from agencies that are parties to an agreed-upon education and treatment plan or to otherwise implement the provisions of the agreement. The Coordinating Council for People with Disabilities is a state level policy body responsible under guidance of the Administrative Procedures Act and under mandate from the Omnibus Disability Services Act (1991) for:

1. Coordinate and ensure that services and supports are provided in a cost-effective manner. It is the intent of the Legislature that services and supports provided under this chapter be coordinated to meet the individual needs of persons with disabilities; and

2. Whenever possible, regard an individual's personal choices concerning services and supports that are best suited to his individual needs and that promote his independence, productivity, and integration in community life.

The creation of the CCPD by legislative mandate creates the mechanism to develop interagency agreements and resolve interagency disagreements, including those which relate to financial responsibilities. The State Office of Education has established a State Special Education Rule regarding interagency collaboration which further addresses this issue. (Rule II.0)

All interagency agreements between the Utah SEA and other state and local agencies that provide or pay for services for students with disabilities, as required under Part B, will:

1. Describe the role each agency plays in providing or paying for services required under Part B.

2. Provide for the development and implementation of interagency agreements that:

   a. Define the financial responsibilities of each agency for providing FAPE,

b. Establish procedures for resolving interagency disputes among agencies that are the parties to these agreements, and

c. Establish procedures under which LEAs may initiate proceedings to secure reimbursement from agencies that are parties to the agreement or otherwise implement the agreement.

The following format will be used for all such interagency agreements.

FORMAT FOR INTERAGENCY AGREEMENT

Date:

PARTIES:

SUBJECT:

ROLE OF EACH AGENCY:

FINANCIAL RESPONSIBILITIES OF EACH AGENCY:

Procedures for resolving interagency disputes:

The Coordinating Council for People with Disabilities (CCPD) shall be used as the arbitrator of all disputes regarding interagency agreements affecting the delivery of a free appropriate, public education for students with disabilities. The LEA/SEA shall use the CCPD to secure reimbursement from agencies that are parties to the agreement or otherwise implement the agreement.

EFFECTIVE DATES:

SIGNATURES:

_____ _____

_____ _____

_____ _____

_____ _____

The Utah State Office of Education will continue to be involved in several interagency committees which have the responsibility of developing needed interagency agreements. These committees include the Interagency Coordinating Council for Infants and Toddlers with Disabilities, the Task Force for Children and Youth at Risk, the Governor's Council for People with Disabilities, the Utah State Board of Education Advisory Panel on Special Education, the CASSP Advisory Committee, and the Utah Assistive Technology Program Management and Implementation Board.

XX. PERSONNEL STANDARDS 613(a)(14)

Section 613(a)(14) of the Individuals with Disabilities Education Act (IDEA), as implemented by 34 CFR 300.153, requires that each State Plan submitted under Part B of the Act include policies and procedures relating to the establishment and maintenance of personnel standards adequate to ensure that personnel necessary to carry out the purposes of the IDEA-B are appropriately and adequately prepared and trained.

XX. A. The State of Utah as set in USOE Rules (i.e., Section II.G. of the State Board of Education Special Education Rules) the following definitions with respect to personnel standards -- consistent with the provisions contained in 34 CFR 300.153:

1. "Appropriate professional requirements" are those entry-level requirements that: (a) are based on the highest requirements in the State applicable to a profession or discipline in which a person is providing special education or related services, and (b) establish the qualifications for personnel providing such services under UCA 53A-15-301 and the IDEA-B to children and youth with disabilities who are served by State, local, and private agencies;

2. "Highest requirements in the State applicable to a specific profession or discipline" are the highest entry-level academic degree needed for any State-approved or -recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline;

3. "Profession or discipline" is a specific occupational category that: (a) provides special education and related services to children and youth with disabilities under the UCA 53A-15-301 and the IDEA-B, (b) has been established or designated by the State, and (c) has a required scope of responsibility and degree of supervision; and

4. "Qualified" through "State-approved or -recognized certification, licensing, registration or other comparable requirements" means the requirements that the Utah State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in the State.

XX. B. Consistent with the requirements of 34 CFR 300.153, the Utah State Office of Education (USOE) has established and maintains standards to ensure that the personnel necessary to carry out the purposes of IDEA-B are appropriately and adequately prepared and trained. The policies and procedures established and administered by the USOE in conformance with the IDEA-B requirements are:

1. Pursuant to the Utah State Board of Education Special Education Rules (Section II.G.1-2), the State has established and maintains standards to ensure that personnel necessary to carry out the purposes of UCA 53A-15-301 and Part B of the Individuals with Disabilities Education Act (IDEA-B) are appropriately and adequately prepared and trained. State standards adopted for the preparation and training of the personnel necessary for the provision of special education and related services in the State of Utah are provided in Attachment A to this State Plan. In accordance with Section II.G.3 of the State Board of Education Special Education Rules

(hereinafter referenced as Utah Special Education Rules), the USOE, through the Special Education Services Unit, conducts an annual review of entry-level standards for all professions and disciplines necessary for special education and related services in the State. This annual review includes the analysis of the certification, licensure, registration or other comparable requirements granted by all State agencies in the State with authority over personnel serving children and youth with disabilities, including the Utah State Office of Education, the State Board of Licensing, and the Division of Occupational and Professional Licensing located in the State's Department of Commerce.

2. In accordance with the requirements of Section II.G.1-2 of the Utah Special Education Rules and the contents of Attachment A (State Special Education Personnel Standards), the USOE has in place and administers the policies and procedures required to assure that the standards for all entry-level professions or disciplines are consistent with any State-approved or -recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which a person is providing special education or related services. In so doing, the USOE's Special Education Services Unit annually collects updated data on personnel standards from the appropriate units of the USOE (e.g., Division of Rehabilitation, Agency Services/Teacher Certification), the State Board of Licensing, and the Division of Occupational and Professional Licensing located in the State's Department of Commerce. In conducting this review on or before September 1st of each year, the staff of the Special Education Services Unit considers the personnel standards requirements and all State statutes and the rules of all State agencies applicable to serving children and youth with disabilities.

3. Based upon USOE's annual review of personnel data (described in item 2, above), a determination is made as to the highest standard applicable to each profession or discipline necessary for the provision of special education and related services. Consistent with Section II.G.3 of the Utah Special Education Rules, the USOE identifies in a Report on Special Education Personnel Standards (to be published on or before September 15th of each year):

   a. Those professions or disciplines for which the highest requirements of the State do apply;

   b. Those professions or disciplines for which the highest personnel standards of the State do not apply; and

   c. For those professions or disciplines for which the highest requirements of the State do not apply, the USOE must detail the steps that the State is taking to require the retraining or hiring of personnel that meet the appropriate professional requirements of the State.

4. The most recent USOE review for determining the status of personnel standards in the State of Utah was conducted in February of 1992 (in anticipation of this State Plan submission). The next scheduled annual review will be undertaken in August of 1992 and will be conducted by the Special Education Services Unit staff prior to September 1st each year thereafter.

Based upon the State's analysis, the following determinations have been made:

Profession/Discipline	USOE Cert.	Licensure or other requirement	Discrepancy
Teacher of Mild/Moderate	Yes	No	No
Teacher of Severe Disability	Yes	No	No
Teacher of Preschool Disabled	Yes	No	No
Communication Disorders (Speech Pathology/Audiology)	Yes	No	Yes
Teacher of the Visually Impaired	Yes	No	No
Teacher of the Deaf	Yes	No	No
School Psychologist	Yes	No	No
School Social Worker	Yes	No	No
School Counselor	Yes	No	No
Occupational Therapist	No	Yes	No
Physical Therapist	No	Yes	No
Medical Personnel (including physicians, psychiatrists, and ophthalmologists)	No	Yes	No

5. One area of discrepancy, Communication Disorders, was identified as the result of the State's 1991-92 analysis. As part of its comprehensive system for determining the status of personnel standards in the State, the USOE has in place procedures for identifying and addressing such discrepancies on an annual basis. These procedures are as follows:

   a. The staff of the Special Education Services Unit annually collects and on or before September 1st reviews data on all applicable personnel standards in the State which pertain to the provision of special education and related services. In annually identifying the highest requirements of the State and determining the status of personnel standards, the Special Education Services Unit staff shall consider all professional or disciplinary requirements and all State statutes and the rules of all State agencies applicable to serving children and youth with disabilities, including the standards of the USOE, the State Board of Licensing, and the Division of Occupational and Professional Licensing located in the State's Department of Commerce.

b. In the event that a discrepancy between existing USOE standards and any other State standards is identified, the highest entry-level standard shall be determined by the USOE, Special Education Services Unit. The State Director of Special Education, with the approval of the State Superintendent of Public Instruction, shall develop a written plan -- with appropriate steps and timelines -- to ensure that all personnel in the profession or discipline in which the discrepancy exists will meet the highest standards of the State (as determined through the Special Education Services Unit's annual review).

c. In developing and implementing this Plan, the State Director of Special Education shall employ all necessary preservice and inservice options available through the State's Comprehensive System of Personnel Development (see Part VIII to this State Plan). The State Director of Special Education shall notify all public agencies and, individually, all personnel affected by the discrepancy. This communication shall be accomplished through formal correspondence (directed to all public agencies and personnel affected by the discrepancy), as well as through on-going announcements in statewide publications for professionals in special education and related services. Such written communication shall:

(1) Identify the discrepancy in personnel standards which exist;

(2) Detail the Federal and State requirements with respect to personnel standards;

(3) Describe the standards which must be met in the profession or discipline in which the discrepancy is found and the training options available for meeting these requirements through the State's Comprehensive System of Personnel Development (CSPD); and

(4) Identify the timelines established statewide for meeting the highest entry-level requirements for all personnel in the profession or discipline in which the discrepancy exists.

6. The USOE's most recent review of personnel standards in the State (detailed above) identified only one area of discrepancy, communication disorders. Attachment K contains a request for USOE/OSEP interpretation prepared by USOE which addresses this discrepancy -- and the Office of Special Education Program's response. These two letters establish the course that the USOE will pursue in eliminating this discrepancy (consistent with the USOE procedures (1) through (4) above). Specifically, the Utah State Office of Education assures the following:

a. The basic (provisional) certificate in communication disorders will be eliminated in the year 2001. It is the State's intention through the implementation of Utah's CSPD to have available sufficient numbers of master's level communications disorders specialists to meet statewide needs by the year 2001. Recruitment and training efforts to assure the achievement of this ten-year personnel goal will be coordinated by the Utah State Office of Education through the Personnel Preparation Planning Council (involving all institutions

of higher education) and the CSPD Consortium (involving all public school districts, institutions of higher education, and professional and advocacy organizations).

b. Consistent with procedures (1) through (4) above, the State Director of Special Education shall (during the 1992-93 academic year) prepare formal correspondence outlining: (1) the discrepancy with respect to personnel standards for communication disorders specialists, (2) the steps to be taken to eliminate the discrepancy, and (3) the timelines for eliminating the discrepancy. This correspondence shall be forwarded to all current (provisionally and permanently-certified) communication disorders specialists; the State professional organizations with which they are affiliated (e.g., Utah Speech, Language, and Hearing Association); all public agencies in the State responsible for the provision of special education and related services; and all institutions of higher education in the State. An updated letter to each of these addressees (which meet the procedural and content requirements of items (1) through (d) above) shall be prepared and forwarded during September of each succeeding academic year through the year 2001.

c. In addition to the annual formal correspondence detailed above, the USOE shall each year publish information consistent with the requirements of items (1) through (4) above, in the statewide publication for special education and related service professionals and other interested parties, The Utah Special Educator.

7. Attachment L identifies the strict standards established in the State of Utah for the granting of temporary or emergency certification (i.e., letters of authorization). The time limit for fulfilling all entry-level standards for the profession or discipline under which an individual is serving under a letter of authorization is one year, in all but well-documented "extreme circumstances". In the event that an individual serving under a letter of authorization does not complete the program required for appropriate certification within the time period established, that individual may no longer serve in the capacity for which the letter of authorization was granted. The complete text of the policy regarding State and local administration of "letters of authorization" is provided in Attachment L.

In addition to this information (i.e., information on letters of authorization) being available to the public through State Rules, annual announcements from the Utah Office of Education's Division of Operation/Teacher Certification, and general correspondence, the State informs both the employing school district and the employee serving under the letter of authorization of the steps which must be taken by the employee (and the timelines required) to meet full State certification/licensure standards for the profession or discipline in which the individual is providing special education or related services.

The Letter of Authorization is an emergency certificate that enables a school district to employ a person close to certification when no certified person is available. As previously explained, the Letter of Authorization is only granted for one year. USOE will work to increase the core of available certified personnel by recruiting additional trainees, coordinating with IHEs to expand the number of teachers trained.

By 2010, all personnel providing special education or related services will have the minimum of a Bachelor's degree, with a Master's degree or equivalency (55 quarter hours earned after meeting requirements for the Bachelor's degree) the minimum for both Communication Disorders specialists and School Psychologists. Notification procedures described in 6.b. (page 73) will be followed. This means that it is the intent of USOE that no more Letters of Authorization will be issued after 2009.

8. All information pertinent to the annual status of personnel standards in the State of Utah, including "The Report on Special Education Personnel Standards," is on file in the Utah State Office of Education, Special Education Services Unit, and is available to the public.

9. Consistent with the procedures for the annual collection and review of personnel data in order to determine the highest requirements for each profession or discipline (described in items 2 and 3 -- above), the USOE considers all requirements and all State statutes and the rules of all State agencies applicable to serving children and youth with disabilities.

10. In addition to the annual review and determination of the status of personnel standards conducted by the Utah State Office of Education, the Special Education Services Unit staff incorporates several other, complementary, analyses to determine that Utah's standards for a profession or discipline, including standards for temporary or emergency certification (under letters of authorization), meet all requirements set forth in 34 CFR 300.153. These components include USOE's statewide special education monitoring system, the annual review of local applications under IDEA-B, the annual review of local Personnel Development Plans (PDPs), and the annual analyses of letters of authorization (i.e., emergency certification) granted by USOE's Agency Services/Teacher Certification.

PRESCHOOL GRANT APPLICATION
under
SECTION 619
of
The INDIVIDUALS with DISABILITIES EDUCATION ACT

Application for Federal Assistance:
Beginning July 1, 1992

Contact Person:

John J. Killoran
Section 619 Coordinator

UTAH STATE OFFICE OF EDUCATION
250 East 500 South
Salt Lake City, Utah 84111
(801)538-7708

PART I

REQUIRED CERTIFICATIONS and PUBLIC PARTICIPATION

A. Submission Statement and Certification
B. Executive Order 12372
C. Public Participation
D. Certification Required by EDGAR
E. Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug Free Workplace Requirements

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the US Department of Education, Information Management and Compliance Division, Washington, DC 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0030, Washington, DC 20503.

PART I

A. SUBMISSION STATEMENT AND CERTIFICATION

I, the undersigned authorized official of the State Educational Agency of Utah, hereby submit the following Preschool Grants application for Federal fiscal years 1991 (1992, 1993) under Section 619 of the Individuals with Disabilities Education Act, as amended. The Preschool Grants program will be operated in accordance with the contents of this application and all applicable statutory and regulatory requirements.

3/25/92
DATE

Jay B. Taggart
Signature of Authorized Official

Jay B. Taggart
State Superintendent of Public Instructio
Type Name and Title

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Utah
(State)

B. EXECUTIVE ORDER 12372

This State certifies that:

To the best of our knowledge and belief, data in this application are true and correct, the document has been duly authorized by the governing body of the State Educational Agency, and the State will comply with the attached assurances if the application is approved.

The application was submitted to the State's "single point of contact" under Executive Order 12372 on June 1st, 1992.
Month/Day/Year

C. PUBLIC PARTICIPATION

Applicants must include documentation that this application has been made available to the public as required under Section 435(b) of the General Education Provisions Act, and must include a statement of changes that were made to the application as a result of public comment.

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Utah
(State)

D. CERTIFICATION REQUIRED BY EDGAR

The State educational agency assures that it will comply with the provisions contained in 34 CFR 76.101:

1. That the application is submitted by the State agency that is eligible to submit the application.

2. That the State agency has authority under State law to perform the functions of the State under the program.

3. That the State legally may carry out each provision of the application.

4. That all provisions of the application are consistent with State law.

5. That a State Officer, specified by title in the certification, has authority under State law to receive, hold and disburse Federal funds made available under the application.

6. That the State Officer who submits this application, specified by title in the certification, has authority to submit the application.

7. That the agency that submits the application has adopted or otherwise formally approved the application.

8. That the application is the basis for State operation and administration of the program.

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

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2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

---

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about –

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

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Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted –

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
Utah State Office of Education Special Education Services Unit	
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Jay B. Taggart, State Superintendent of Public Instruction	
SIGNATURE Jay B Taggart	**DATE** 3/25/92

PUBLIC PARTICIPATION

DOCUMENTATION

Appendix A contains information which may be used to document the participation of consumers and professional groups as related to the development of this application for funds. Also included in Appendix A is documentation that the application was circulated throughout the State of Utah for a sixty day period. This period was February 1 through March 31, 1992. This circulation consists of advertisement in statewide newspapers, local newspapers, and memorandum sent through forty LEAs to prospective commentees. Over two hundred copies of the proposed application have circulated throughout the State and available for comment.

CONSULTATION WITH RELEVANT ADVISORY GROUPS

Numerous advisory groups and professional organizations were consulted with during the development of this application. These organizations included, but were not limited to:

- USBEACH - The Utah State Board of Education Advisory Committee on the Handicapped which serves as the state advisory group as mandated under Part B of IDEA;
- The Utah Head Start Directors' Association consisting of the directors and disability coordinators of Utah Head Start Programs including Migrant and Indian Head Start;
- The Utah Consortium of Special Education which consists of universities, parent organizations, advocates, and forty school districts and which addresses Utah's Comprehensive System of Personnel Development;
- LEAD - The Utah Local Education Agency Directors Advisory Group to the State Office of Education Special Education staff;
- The Utah Parent Center which provides training and advocacy for parents related to the provision of services to children with disabilities in Utah public schools;
- The Utah Preschool Providers Consortium which consists of Utah's Part H Providers, representatives from Utah's IHEs dealing with Early Childhood, LEA 619 Coordinators, Head Start Disability Coordinators, private providers serving children with disabilities, and other individuals in the State interested in the provision of Early Childhood Special Education;
- The Utah State Department of Health in its capacity as lead agency for the provision of Part H and Early Intervention services within the State of Utah; and

In addition, public notice was made available which invited all Utah citizens interested in services to preschool-aged children with disabilities to participate in the development and review process of the application. As previously stated, this application was circulated throughout the State for sixty days in order to provide an opportunity for all Utah citizens to publicly comment.

All interested agencies, organizations, and individuals have been provided with the opportunity to participate in the public comment period and this application assures that all entities have been able to participate in compliance with applicable state and federal statutes and regulations. Based on these comments appropriate revisions were made to the application and are reflected within its present content.

PART II

BUDGET CHART

Utah
(State)

PART II

BUDGET INFORMATION

(Note: Provide information on this chart only for the fiscal years covered by this application for your State.)

The State Educational Agency assures that funds under this grant will be allotted according to the requirements at 34 CFR 301.30(a), (b), and (c).

	FY 1991	FY 1992	FY 1993
1. Percentage of funds the SEA plans to use for direct and support services or planning and development of a comprehensive service delivery system (not more than 20% of the grant award).			15%
2. Percentage of funds the SEA plans to use for administrative costs (not more that 5% of the grant award).			0%
3. Percentage of funds the SEA plans to award to LEAs and IEUs (at least 75% of the grant award)			85%
TOTAL	100%	100%	100%

PART III

PROGRAM NARRATIVE

PROGRAM NARRATIVE

DISCRETIONARY FUNDS

DIRECT AND SUPPORT SERVICES TO BE PROVIDED

Presently no special education and related services are provided directly by the SEA to children with disabilities three through five years-of-age. All services are provided by Utah's Local Education Agencies or through contracted arrangements with private and/or Part H providers assuring FAPE on the child's third birthday. For two-year-olds turning three and eligible for preschool special education FAPE is assured upon their third birthday. Direct services provided by LEAs and contracted services provided include IEP driven placement and the provision of developmentally age-appropriate special education and related services. Related services include, but are not limited to: physical, occupational, behavioral, speech and language therapists; transportation; parent counseling and training; adaptive physical education; evaluation and assessment; psychological services; and augmentive communication and adaptive equipment.

Fifteen percent of federal funds will be used for the planning and development of comprehensive statewide service delivery and for the provision of direct and support services to preschool students with disabilities. Funds will be used for continuing statewide coordination activities such as transition as well as for enhancing program development in local education agencies wishing to implement best practice models and/or which experience significant growth requiring program expansion. Specific activities which will be addressed follow:

Activities Conducted with SEA Set-Aside (15%)

1. **Development and implementation of a seamless system of early intervention and special education for all eligible preschool children with disabilities, birth through 5 years-of-age.**

   Justification

   Under PL 99-457, IDEA and it's accompanying amendments and HB 109, the Utah State Office of Education became responsible for providing special education and related services to preschool children with disabilities on July 1, 1988. The Utah State Health Department has been designated as the lead agency for the 0 through 2 infant and toddler program. Continued development of a seamless statewide comprehensive plan of services for children with disabilities and their families is essential. This coordinated effort ensures a smooth transition from the infant and toddler program to the preschool program and the provision of FAPE to eligible children with disabilities on their third birthday.

   Activities

   a. Continued updating and development of interagency memorandums of agreement and technical assistance documents which reflect requirements for implementation of Part H and Section 619 responsibilities for child find, funding, service, and identified areas of need;

b. Continued activities related to training to meet highest qualified personnel standards;

c. Continued training in the use and implementation of transagency transition models to address needs of children, families, and sending and receiving agencies;

d. Continued expansion of transagency collaboration with Utah's Head Start providers to enhance family and community-based services;

e. Continued financial assistance to local education agencies for program expansion due to increased enrollment from previous funding cycles;

f. Continued dissemination of best practice models and assistance in the implementation of best practice models; and

g. Continued provision of ongoing technical assistance and support to Part H providers, LEAs, Head Start and state operated programs.

2. **Implement policies which ensure non-interrupted services and the provision of FAPE on eligible children's third birthday and revise existing policy as needed.**

Justification

SEA administrative policy and procedures must be implemented for the provision of FAPE to eligible children three to five years-of-age and preschool policy and procedures must be synthesized into Utah's Part B state plan, policies and procedures.

Activities

a. Refine eligibility procedures that determine whether a child qualifies for special education and related services under Part B categories and compliance regulations or as developmentally delayed;

b. Expand service options which provide for a free appropriate public education to eligible children;

c. Incorporate preschool rules and monitoring procedures into the Utah State Office of Education Part B State Plan and Regulations;

d. Provide FAPE to two-year-old children with disabilities who will reach age three during the school year, and who are placed in 619 Programs through the IEP process.

3. **Provide training in CSPD activities required to meet personnel standards (teachers and related servers) as well as the dissemination of best practices.**

Justification

Utah is committed to innovation as well as the use of empirically identified best practice in its schools. In order to ensure that the most qualified practitioners are providing preschool special education, Utah must efficiently and effectively use its Comprehensive System of Personnel Development. The use and evaluation of effective service delivery and teaching techniques and the dissemination of identified techniques to practitioners is imperative.

Activities

a. Evaluate existing highest qualified personnel standards for related servers and modify as needed;

b. Ensure revisions to IHE programs of studies required to meet highest quality personnel standards;

c. Coordinate qualified personnel standards and CSPD activities with Part H and Head Start grantees;

d. Continuously conduct a needs assessment to identify existing levels of knowledge and skills in teachers and related servers;

e. Provide technical assistance and inservice activities;

f. Implement inservice strategies in classrooms and through statewide inservice;

g. Provide continuing technical assistance to all LEAs;

h. In conjunction with IHEs, establish model sites for program development which specifically prioritizes integration and transition;

i. Disseminate information from model sites to local school districts;

j. Coordinate IHE inservice training projects with preschool CSPD activities related to certification; and

k. Evaluate the impact of merging existing preschool special education and regular early childhood certificates into a single certificate.

FLOW THROUGH FUNDS

Eighty-five percent of funds will be awarded to LEAs for the provision of direct and related services to preschool-age children with disabilities. This money will be distributed based on December 1 Child Counts and the approval of submitted LEA plans for preschool programs.

LEA APPLICATIONS

Approval of Local Education Agency applications for flow through funds is a two part process and also involves ongoing monitoring and evaluation of LEA programs. Part I of the approval process consists of the submittal of the District Policy Manual for internal review by USOE staff.

Attachment A contains the review sheet used by USOE staff in revising District Policy Manuals. Upon initial review the manual is returned to the LEA for revisions as indicated. When revisions are made the LEA resubmits the manual to the USOE for a second series of review. Emphasis will be placed on assuring continuity and compliance with new federal and state regulations for implementing IDEA and its ensuing amendments and reauthorizations upon their final adoption. This process is ongoing until the District Policy Manual is fully approved by USOE staff. The second part of the application process consists of the submittal of a Local Education Agency application for funds. This application may be completed either narratively or by cross-referencing to the District Policy Manual. The LEA application addresses:

1. General Program Description

    a. Program Goals
    b. Program Evaluation

2. Full Educational Opportunity Goal

    a. Goal/Timetable
    b. Facilities
    c. Personnel
    d. Services

3. Child Identification

    a. Child Find Procedures
    b. Determination of Needs

4. Parent Involvement

5. Participation in Regular Education Programs

    a. District LRE Policy
    b. Procedures for Participation in Regular Education Programs
    c. Types of Alternative Placements
    d. Number of Students Served

6. Individualized Education Program

7. Confidentiality of Personally Identifiable Information

8. Public Participation

    a. Procedures for Planning/Operation
    b. Procedures for Inspection/Comment
    c. Documents Made Available
    d. Public Notice of Availability

9. Personnel Development

   a. Coordination with Utah State Office of Education Comprehensive Personnel Development Plan.
   b. Annual Personnel Development Needs Assessment
   c. Personnel Development Activity Priorities
   d. Personnel Development Activities Conducted with Federal Funds

      (1) EHA-B Flow Through (75%)
      (2) EHA-B Discretionary (20%)
      (3) PL 99-457 (Preschool)

   e. Personnel Development Activities Conducted by:

      (1) Utah Learning Resource Center (ULRC)
      (2) Regional Service Center

10. Supervision

   a. Adequacy
   b. Appropriateness

11. Private Schools

   a. Participation in Private Schools

      (1) Are there private elementary or secondary schools located in LEA's legal jurisdiction?
      (2) Procedures for participation of students enrolled in private schools
      (3) Number of students enrolled in private school(s) who have been identified as eligible for benefits under the program.
      (4) Number of students enrolled in the private school(s) who will receive benefits under the program.
      (5) Basis upon which LEA selected students for participation.
      (6) Consultation with representatives of private schools(s).
      (7) Place(s) and time(s) that eligible private school students will receive benefits under the program.
      (8) Differences, if any between benefits provided to students in public schools and students in private schools.

   b. Public education placement in private schools.

      (1) Placement procedures.
      (2) Number and location of students placed.

12. Youth in Custody

a. Extent of involvement with Youth in Custody Program.

(1) Total number of students in Youth in Custody Programs within your district on April 15.
(2) Total number of Youth in Custody students classified as handicapped and receiving Special Education services.
(3) If information is available, total number of these students served as handicapped prior to commitment.

b. Type of involvement with Youth in Custody Program.

(1) LEA participation in identification, location, evaluation, and service delivery process.
(2) Indicate where students were receiving special education services on April 15 of past year.

13. Specialized Vocational Education and Transitional Programs

a. Extent of involvement in Specialized Vocational Education and Transitional Programs.

(1) Total number of students with handicaps receiving regular vocational education.
(2) total number of students with handicaps receiving specialized vocational education.
(3) Total number of students with handicaps receiving transitional services.

b. Types of Specialized Vocational Education and Transitional services provided.

c. Types of involvement with Regular Vocational Education Program, including but not limited to, occupational training and employment.

d. Types of involvement with other State Service Providers including, but not limited to, the Office of Rehabilitation, and Departments of Social Services and Health.

Upon receipt by USOE the application is submitted for an internal review process which includes specific reviews by the Section 619 Coordinator, the Federal Compliance Specialist, the Fiscal Specialist, and the CSPD Coordinator for Special Education with final approval by the State Director of Special Education. If needed, the application is returned to the LEA for revision and is again reviewed by USOE staff as previously indicated. This process is repeated as needed until an approved application is received. Final approval is provided by the State Director of Special Education. Appendix B contains specific procedures and documentation which is used in the application approval process. It should be noted that the assurance is given that this application and approval will be modified as appropriate if necessitated by final regulations for IDEA.

The Special Education staff of the Utah State Office of Education annually make technical assistance visits to all school districts. These visits include the examination of records and verification of activities reported in federal grants as well as verification of completion of corrective action plans required by previous monitoring visits. USOE staff provide programmatic suggestions and assistance as needed during these TA visits. Additional technical assistance is provided to all districts in enhancing and expanding their preschool special education services. Districts chosen as model sites are monitored on a regular basis and information is collected to assist other districts in developing programs. The staff also ascertains the district's compliance with federal and state guidelines in the provision services. A final report from each LEA receiving preschool special education funds describes the actual activities and events conducted by the district. A summary of expenditures is also required prior to final reimbursements.

Table I provides a brief description of preschool project activities performed, and lists the amount of the most current grant awarded to LEAs as well as the number of children served.

TABLE I
PRESCHOOL PERFORMANCE REPORT

DISTRICT	NO. OF CHILDREN	619 FLOW THROUGH	PLANNING	DIRECT SERVICE
ALPINE	135	86,054	X	X
BEAVER	21	13,388	X	X
BOX ELDER	114	72,668	X	X
CACHE	81	51,633	X	X
CARBON	30	19,123	X	X
DAGGETT	4	2,550	X	X
DAVIS	355	226,291	X	X
DUCHESNE	45	28,685	X	X
EMERY	7	4,462	X	X
GARFIELD	6	3,825	X	X
GRAND	26	16,573	X	X
GRANITE	337	214,817	X	X
IRON	52	33,147	X	X
JORDAN	296	188,682	X	X
JUAB	25	15,936	X	X
KANE	28	17,848	X	X
LOGAN	53	33,784	X	X
MILLARD	84	53,545	X	X
MORGAN	15	9,562	X	X
MURRAY	37	23,585	X	X
NEBO	97	61,832	X	X
NORTH SANPETE	43	27,410	X	X
NORTH SUMMIT	10	6,374	X	X
OGDEN	34	21,673	X	X
PARK CITY	10	6,374	X	X
PIUTE	32	20,398	X	X
PROVO	87	55,457	X	X
RICH	9	5,737	X	X
SALT LAKE	260	165,734	X	X
SAN JUAN	66	42,071	X	X
SEVIER	85	54,182	X	X
SOUTH SANPETE	78	49,720	X	X
SOUTH SUMMIT	5	3,187	X	X
TINTIC	19	12,111	X	X
TOOELE	44	28,047	X	X
UINTAH	133	84,779	X	X
WASATCH	18	11,474	X	X
WASHINGTON	88	56,095	X	X
WAYNE	32	20,398	X	X
WEBER	258	164,459	X	X

NUMBER OF LEAs RECEIVING SUB-GRANTS AND CONSOLIDATED APPLICATIONS

All (100%) of Utah LEAs provide preschool special education and related services to children with disabilities within their school districts. Forty districts receive individual sub-grants. No consolidated sub-grants will be funded. Consolidated applications previously submitted by Weber County School District, which included services for Ogden City School District, and Uintah School District, which provided services to the Daggett School District are now individually administered. All services are provided to eligible children within their district of residence.

ADMINISTRATIVE FUNDS

No funds received under this application will be used for administrative purposes. Five percent administrative funds; plus an additional five percent from the SEA set aside, will be allocated with the seventy-five percent flow through equaling a total of eighty percent flow through to LEAs. Funding for Utah's Section 619 Coordinator and support staff in administrative functions will be allocated from the State's Part B allocations.

DIRECT SERVICES FROM THE SEA

As previously mentioned, all of Utah's 40 LEAs are able and willing to provide special education and related services to eligible children residing in their districts. No direct services are provided by the SEA and no SEA set-aside funds are used for direct services. The LEAs ability to provide services is evaluated through their annual applications (discussed previously on page 4) and services are monitored tri-annually through program administrative reviews and internal quality reviews.

PROGRAM ADMINISTRATIVE REVIEWS

SEA personnel, contracted assistants, and selected observers from the Utah State Board of Education Advisory Committee for the Handicapped (USBEACH) are involved in conducting Program Administrative Reviews (PARs) of public agency educational programs for the handicapped. These reviews are conducted once every three years, or more frequently, if special circumstances dictate (e.g., continuous district noncompliance difficulties in service delivery efforts).

Program Review teams select, based on a random sample of district files, a predetermined number of Individual Education Program documents. The content of these materials are analyzed and attendant programs and services actually delivered to students with handicaps are reviewed.

Specific procedures for implementing the PAR process include:

1. Ongoing Self-Evaluation

   The Program Administrative Review (PAR) is designed to enable Local Education Agencies (LEAs) and State Operated Programs (SOPs) to perform self-evaluations of the development, dissemination and implementation of their policies and procedures. Data from this self-evaluation can then be compiled into PAR Summary Forms. Since on-site PARs are usually scheduled once every three years, LEAs/SOPs are encouraged to conduct annual self-evaluation.

2. The PAR Visit

Fourteen (14) days before the scheduled visit, the LEA/SOP is notified regarding the number and types of individuals who will be interviewed. This written notification will also indicate when the PAR team plans to review LEA/SOP policies and student records. The PAR visit generally requires from two to five days. The following schedule is followed:

a. Meeting with Superintendent and other LEA/SOP representatives.

b. Logistics: Policies, records, schools, and professionals are chosen for analysis and interviews.

c. Document Analysis: Policies and pupil records are reviewed (using a district policy checklist and a pupil record checklist).

d. Validation Interviews: Structured interviews are conducted with LEA/SOP personnel and parents.

e. State staff reviews data and reaches a consensus of findings.

f. Exit Interview: Findings are shared with LEA/SOP personnel.

3. Interim Report

a. Analysis of Data: State staff then will compile the data and using the summary forms, will collapse the data into the following categories: Public Awareness, Identification, Evaluation, Individualized Education Program, Placement, Reevaluation, Out-of-School Placement, Confidentiality, Due Process, and other requirements. This process will be completed within fourteen (14) days and will result in an interim report.

b. The Report: Using the summary data, state staff will formulate an interim report. This report will be shared with LEA/SOP for comment.

c. Negotiation: In the fourteen (14) day interval following receipt of the information in the interim report, the LEA/SOP will be given the opportunity to interact with the state staff regarding the content of the interim report. This input will be evaluated and will be considered for inclusion when the final report is assembled.

4. Final Report

The state staff will prepare the final report of the PAR visit. This report will identify areas of LEA or SOP noncompliance and may contain recommended strategies for remediating these issues. The final report will be sent to the LEA/SOP within fourteen (14) days after the closing date of the interim report negotiation phase.

5. Negotiated Action Plan

Within thirty (30) days after the final report is received by the LEA/SOP, an Action Plan will be negotiated between the LEA/SOP and the State, specifying strategies and timelines for ensuring that the public agency will immediately take steps to correct, prevent and the recurrence of, and eliminate the past effects of each identified deficiency. Follow-up visits will be scheduled as mutually determined by the LEA/SOP and the USOE Special Education staff member assigned as the Technical Assistant (TA).

6. Enforcement

If an LEA/SOP fails to voluntarily take steps to correct any identified deficiency or implement any component of the Negotiated Action Plan, the State Superintendent shall notify that agency, in writing, of the following:

a. The agency's failure to correct any identified deficiency constitutes noncompliance with state and federal law;

b. The actions to be taken by USOE to enforce state and federal law;

c. The right to a hearing prior to USOE's exercise of its enforcement responsibility; and

d. The consequence USOE's enforcement actions would have on continued and future state/federal funding of that special education program.

APPENDIX A

LEGAL NOTICE

PUBLIC COMMENT INVITED BY
UTAH STATE BOARD OF EDUCATION
ON PRESCHOOL HANDICAPPED GRANT

The Preschool Grant for FY 92-93 regarding P.L. 99-457, designed to meet the educational needs of preschool children with disabilities, is available for public comment at the Utah State Office of Education. Comments can be made in written or verbal form through March, 1992. (Total comment period: Feb. 1 through Mar. 30, 1992, or 60 days.)

Send comments to: John Killoran, Services for At Risk Students Section, Utah State Office of Education, 250 E. 500 So., Salt Lake City, Utah 84111. Phone (801)538-7708.

Copies of the Preschool Grant are available upon request from the same address.

UTAH STATE OFFICE
OF EDUCATION

Jay B. Taggart
State Superintendent of Public Instruction

UTAH STATE BOARD OF EDUCATION
UTAH STATE BOARD FOR VOCATIONAL EDUCATION
Keith T. Checketts/Chair · C. Grant Hurst/Vice Chair
Neola Brown · Donald C. Christensen
John M.R. Covey · Ruth Hardy Funk · Harold S. Jensen
V. Jay Liechty · Frances H. Merrill

MEMORANDUM

TO: Daily Spectrum

ATTENTION: Legal Notices Dept./Donna Ralphs
St. George & Cedar City

FROM: Rebecca Donovan

SUBJECT: NOTICE OF PUBLIC COMMENT REQUESTED BY THE UTAH STATE BOARD OF EDUCATION ON THE PRESCHOOL HANDICAPPED GRANT

Please publish in your newspaper the attached Legal Notice on **March 8th and March 15th, 1992**.

Please send a notarized copy with statement to:

Linda Morrison
Special Education Services Unit
Utah State Office of Education
250 East 500 South
Salt Lake City, Utah 84111

If you have any questions, call 538-7708.

Thank you.

Attachment: Legal Notice Copy

Instructional Services
Steven R. Mecham, Associate Superintendent
250 East 500 South / Salt Lake City, Utah 84111 (801) 538-7515

UTAH STATE OFFICE
OF EDUCATION

Jay B. Taggart
State Superintendent of Public Instruction

UTAH STATE BOARD OF EDUCATION
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Keith T. Checketts Chair · C. Grant Hurst Vice Chair
Neola Brown · Donald C. Christensen
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MEMORANDUM

TO: Newspaper Agency Corp.

ATTENTION: Legal Notices Dept./Lynn Valdez
Tribune & Deseret News

FROM: Rebecca Donovan

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Utah State Office of Education
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Steven R. Mecham, Associate Superintendent
250 East 500 South / Salt Lake City, Utah 84111 (801) 538-7515

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MEMORANDUM

TO: Ogden Standard Examiner

ATTENTION: Legal Notices Dept./Gail LaRue

FROM: Rebecca Donovan

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Utah State Office of Education
250 East 500 South
Salt Lake City, Utah 84111

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Instructional Services
Steven R. Mecham, Associate Superintendent
250 East 500 South / Salt Lake City, Utah 84111 (801) 538-7515

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UTAH STATE BOARD OF EDUCATION
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MEMORANDUM

TO: The Herald Journal

ATTENTION: Legal Notices Dept.

FROM: Rebecca Donovan

SUBJECT: NOTICE OF PUBLIC COMMENT REQUESTED BY THE UTAH STATE BOARD OF EDUCATION ON THE PRESCHOOL HANDICAPPED GRANT

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Please send a notarized copy with statement to:

Linda Morrison
Special Education Services Unit
Utah State Office of Education
250 East 500 South
Salt Lake City, Utah 84111

If you have any questions, call 538-7708.

Thank you.

Attachment: Legal Notice Copy

120

UTAH STATE OFFICE
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Jay B. Taggart
State Superintendent of Public Instruction

UTAH STATE BOARD OF EDUCATION
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V. Jay Liechty · Frances H. Merrill

MEMORANDUM

TO: Provo Daily Herald

ATTENTION: Legal Notices Dept./Janette

FROM: Rebecca Donovan

SUBJECT: NOTICE OF PUBLIC COMMENT REQUESTED BY THE UTAH STATE BOARD OF EDUCATION ON THE PRESCHOOL HANDICAPPED GRANT

Please publish in your newspaper the attached Legal Notice on **March 8th and March 15th, 1992**.

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Utah State Office of Education
250 East 500 South
Salt Lake City, Utah 84111

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Thank you.

Attachment: Legal Notice Copy

Instructional Services
Steven R. Mecham, Associate Superintendent
250 East 500 South / Salt Lake City, Utah 84111 (801) 538-7515

Scott W. Bean
State Superintendent of Public Instruction

Utah State Office of Education
250 East Fifth South
Salt Lake City, Utah 84111